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FAKE BASQUIAT RAISES REAL ISSUES FOR "MARKET MAKERS"

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INCORPORATING STOLEN ART ALERT

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EDITOR-IN-CHIEF: Sharon Flescher
EDITOR: Kathleen Ferguson
DESIGN: Ana Lucía Rosales-Boujnah

International Foundation for Art Research (IFAR)
500 Fifth Avenue, Suite 935, New York, NY 10110
Tel: (212) 391-6234 Fax: (212) 391-8794 www.ifar.org

EXECUTIVE DIRECTOR: Sharon Flescher
ASSISTANT TO THE DIRECTOR: Kathleen Ferguson
ART RESEARCH DIRECTOR: Lisa Duffy-Zeballos

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"MARKET MAKERS" BEWARE:

DOWNSTREAM PURCHASER OF FAKE BASQUIAT PAINTING ALLOWED TO PROCEED AGAINST CHRISTIE'S

When Guido Orsi purchased what he believed was a Jean-Michel Basquiat painting for $185,000 from the Tony Shafrazi Gallery in 1991, there seemed to be no question as to the work's authenticity. The gallery had purchased it a year earlier for $242,000 from Christie's East, New York (February 23, 1990, lot no. 176), whose accompanying auction catalogue stated that it was a Basquiat obtained "directly from the artist." So, when the work was later excluded from an exhibition over questions as to its authorship and deemed inauthentic by the Authentication Committee of the Estate of Jean-Michel Basquiat, which, Orsi alleges, had also told Christie's that it was inauthentic before the sale, Orsi sought redress.

" So when the work was later . . . deemed inauthentic by the . . . Estate of Jean-Michel Basquiat, which, Orsi alleges, had also told Christie's that it was inauthentic before the sale, Orsi sought redress."

First, he sued the Shafrazi Gallery. He then withdrew that lawsuit and proceeded, together with Shafrazi and his gallery, against Christie's in a case now pending before a New York state trial court.[1]

FIGURE 1. Fake Basquiat sold at auction in 1990 as authentic.

Perhaps Orsi believed that by teaming up with Shafrazi, he was shoring up a potential gap in his case — Orsi, after all, was not a party to the original sale, and the existing case law seemed to preclude fraud claims by third parties where the false statement was made to, and intended for the sole use of, someone else.[2] It turns out, however, that Orsi could have gone it alone (and in fact, now must do so since Shafrazi's claims have been dismissed). In two recent rulings, the court held that Orsi could proceed with his fraud claims — notwithstanding that he was a downstream purchaser of whose existence Christie's was completely unaware. In so holding, the court adopted Orsi's theory that Christie's, as a large and prestigious auction house, is a "market maker" that knows or ought to know that its catalogues will be relied upon by subsequent purchasers.

1 *Tony Shafrazi Gallery, Inc. v. Christie's Inc.* No. 112192/2007 (N.Y. Sup. Ct., filed Sept. 7, 2007).

2 *See, e.g., Mandarin Trading Ltd. v. Wildenstein*, 65 A.D.3d 448 (App. Div. 1st Dept. 2009) (refusing to allow an art investor to sue a gallery for an allegedly inflated appraisal because the gallery never knew of the investor's "existence or the purpose for which the appraisal was to be used"); *Rosen v. Spanierman*, 894 F.2d 28 (2d Cir 1990) (holding that a woman who had purchased a forged painting as a gift could not sue the gallery for fraud because the gallery made the false attribution to the giftees, not her, and there was "no evidence that [the gallery] expected [its] representations to be repeated" to her.

CHRISTIE'S MOTION TO DISMISS

Orsi's and Shafrazi's Amended Complaint — seeking more than $2 million in actual damages and $5 million in punitive damages — originally sounded in fraud, fraudulent inducement, negligent misrepresentation, deceptive and misleading business practices, breach of contract (alleged solely by Shafrazi), and breach of warranty. In late 2007 and again in early 2008 (after the plaintiffs slightly amended their claims), Christie's moved to have the action dismissed, or, alternatively, to have damages limited to "actual pecuniary losses."

Christie's argued that the non-fraud claims were barred by the applicable statutes of limitations. As for the fraud claims, Christie's asserted that (1) Shafrazi, who had sold the painting as authentic, had not been harmed and thus could not sue, and (2) Orsi, as a downstream purchaser about whom Christie's had no knowledge whatsoever, could not maintain his claims because Christie's never expected or intended for him or other downstream purchasers to rely on statements in its auction catalogue. As evidence that its catalogues are intended to be relied upon solely by original purchasers, Christie's pointed to the Limited Warranty language contained in the February 23, 1990 catalogue. That language provided that the warranty is "not assignable and shall be applicable only to the original buyer of the lot and not subsequent assigns, purchasers, heirs, owners or others who have or may acquire an interest therein."[3]

"... the court held that Orsi could proceed with his fraud claims – notwithstanding that he was a downstream purchaser of whose existence Christie's was completely unaware."

THE COURT'S RULINGS

On November 17, 2008, the court issued a ruling siding with Christie's on its statute of limitations arguments as well as its assertion that Shafrazi could not sue because he had not been harmed. It was not persuaded, however, by Christie's position as to the more novel, and potentially more far-reaching issue in the case — namely, whether downstream purchasers can bring fraud claims when they rely to their detriment upon false statements made in auction catalogues. Giving Orsi every benefit of the doubt (as, indeed, it must do at this stage), the court was persuaded by his contention that Christie's, as a "prestigious auction house" and "market maker," knew or should have known that its catalogues would be relied upon "by bidders at its auction, as well as subsequent purchasers."[4] In allowing Orsi to proceed under this "market maker" theory, the court looked not to case law, but rather, relied heavily upon the affidavit of New York gallerist John H. ("Jack") Tilton, Jr., which Orsi submitted to buttress his claims. Tilton testified as to custom and practice in the art market and described Christie's as a "market maker" for the works of Jean-Michel Basquiat. According to Tilton, a market maker:

> sets the price for particular categories of art or artists or quotes prices for both sellers and buyers and thereby facilitate[s] and maintain[s] a market for such art or artists. Christie's furthers its market maker activities by setting

[3] Mem. of Def. Christie's Inc. in Supp. of Mo. to Dis. the First Am. Compl. (filed Nov. 17, 2008).

[4] *Tony Shafrazi Gallery, Inc. v. Christie's Inc.*, No. 112192/2007, slip op. at 5-6 (N.Y. Sup. Ct., dated Nov. 7, 2008).

estimates for reserve prices based on past auction sales.

Tilton went on to attest that: (1) art purchasers rely on the "skill and knowledge of the art market" as it is presented to the general public by Christie's and other "prestigious" auction houses; (2) Christie's routinely advises buyers as to authenticity, provenance and investment value; (3) the custom and practice in the art industry is that "when a prestigious auction house publishes a warranty in its catalogue . . . such statement constitutes an explicit statement that the work is authentic, extending into the indefinite future."[5]

The court also denied Christie's request for a limitation of damages. It noted that while traditional remedies for fraud had been limited to "actual pecuniary loss" and consequential damages, Section 2-721 of the Uniform Commercial Code changed that by extending "all remedies" available under the UCC to fraud claims involving the sale of goods.[6]

Christie's asked the court to reconsider its decision, arguing that it was fundamentally unfair and against established legal principles to subject Christie's to liability to "an indeterminate class of persons who, presently or in the future may rely" on Christie's catalogues. Christie's also argued that the court's refusal to limit damages was "unprecedented" and "anomalous," and contradicted the established principle that "the only remedy for fraud is out-of-pocket damages, not the benefit of the bargain."[7]

On April 14, 2009, the court issued a follow-up ruling finding Christie's arguments "unavailing" *but* expressing sensitivity to Christie's concern that if Orsi's claim is sustained, its liability could "stretch out in perpetuity." It explained that while it was not "unmindful of the validity of this line of inquiry . . . [t]he nexus between Christie's and Orsi is not only close but also limited and finite. Christie's may not have known of Orsi specifically, but [Orsi] may be able to establish that [Christie's] would or should have known that Shafrazi — particularly as a gallery — would resell the Painting to someone." As for Christie's damages argument, the court held fast to its view that Section 2-721 of the UCC extended punitive and other damages to fraud claims.

THE CHALLENGES AHEAD

The case will now proceed to the discovery phase, during which the parties will collect documentary evidence and interview witnesses. In order to make it to trial, Orsi will ultimately need to point to evidence to support his "market maker" theory and his damages claims as well as, most importantly, the linchpin of his case — that Christie's *knowingly* misstated the painting's provenance *with the intent to deceive* prospective buyers. As can be inferred from the rather vague affidavit submitted in the case by Gerard Basquiat, Jean-Michel's father and chairman of the Authentication Committee of the Estate of Jean-Michel Basquiat, this basic fact — which is central to the Amended Complaint — may ultimately prove challenging for Orsi to prove.[8]

BASQUIAT COMMITTEE

Gerard Basquiat's affidavit leaves open many questions, most importantly whether he made any

[5] Aff. of John H. Tilton, Jr., dated Dec. 27, 2007.

[6] Section 2-721 of the UCC was made effective by the New York legislature in 1964. It provides: "Remedies for ... fraud ... include all remedies available under this Article for non-fraudulent breach."

[7] Mem. of Def. Christie's Inc. in Supp. of App. to Reargue Mo. to Dis. the First Am. Compl. (dated Nov. 24, 2008, filed April 21, 2009), pp. 1-2.

[8] Paragraph 14 of the First Amended Complaint claims that "Gerard Basquiat ... viewed the painting at [Christie's] and informed [Christie's] ... that the Painting was a counterfeit and/or fake and requested that [Christie's] withdraw the Painting from Auction."

" . . . the art world is left to scratch its collective head over a nebulous new precedent: "market maker" liability for false statements relied upon by downstream purchasers."

meaningful communication to Christie's putting it in on notice that the painting was a fake. He testified that Christie's, through the Robert Miller Gallery (which exclusively represented Basquiat), requested that he and John Cheim (also on the Basquiat Committee) examine three to four Basquiat paintings at its Christie's East location. The two men did so, and apparently concluded that the painting at issue "was not right," and that they could not opine that it was authentic. Curiously, however, Gerard Basquiat does not claim to have communicated that opinion to anyone at Christie's East. Rather, he says that he left Christie's East and "stopped at Christie's at Park Avenue" and asked the receptionist to send down "someone from [Christie's Park Avenue's] Contemporary Art Department." As far as Gerard Basquiat remembers, a "man with blond hair and about forty years old came down to meet" him (Basquiat is uncertain whether the man identified himself), and he told this blond man that he believed that the painting was "not right" and that he "had some questions about it." [9] Nothing in the affidavit indicates who the blond man actually was; whether he had any position of responsibility at Christie's or in the Contemporary Art Department; or whether he communicated Gerard Basquiat's concerns to someone who did. Gerard Basquiat also does not claim — at least not in the Affidavit before the court — to have asked the blond man to ensure that the work be withdrawn from auction.

As the parties sort through the facts in order to glean what actually did and did not happen with respect to Orsi's false Basquiat, the art world is left to scratch its collective head over a nebulous new precedent: "market maker" liability for false statements relied upon by downstream purchasers. While the "market maker" designation — as apparently defined in Jack Tilton's affidavit and adopted by the court — is based on a model of the large, prestigious auction house, one can imagine the paradigm being applied to powerful galleries, smaller specialty auction houses, and even certain individuals. (Indeed, one might imagine, under this formulation, a different outcome in *Mandarin Trading v. Wildenstein,* had Wildenstein & Co. been deemed a "market maker" in the works of Gauguin.) In addition, while the court essentially conceded that downstream purchaser liability could not and should not exist in perpetuity, there is presently no way to know where the line will be drawn.

— MARY MORABITO ROSEWATER, ESQ.
IFAR Research Associate

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[9] Aff. of Gerard Basquiat dated Dec. 5, 2007 (filed Apr. 21, 2009).

A NEW LEONARDO?

IN THE COURTS OF SCHOLARLY OPINION—AND LAW—THE JURY IS STILL OUT

Could an alleged misattribution of a drawing sold at Christie's over ten years ago put the auction house on the hook for over $150 million in damages? That is the central question in a lawsuit recently filed by Swiss collector, Jeanne Marchig, in a New York federal court.

"If Marchig's case ends up going to trial, a judge or a jury will have to decide whether Christie's is liable for damages based on an attribution that is still the subject of scholarly debate."

Marchig filed suit against Christie's in May for, among other things, breach of warranty and breach of fiduciary duty, regarding a drawing that she consigned to the auction house in 1997, and which she says Christie's negligently misattributed to an early 19th century artist of the German School. It was with this description that the drawing was purchased on January 30, 1998, lot #402, by New York dealer Kate Ganz, for $21,850 (includes buyer's premium). Several experts have since reattributed the drawing to Leonardo da Vinci, and it has been insured against loss or damage in excess of $100 million.

FIGURE 1. ***Portrait Drawing of a Young Woman.*** **Ink, gouache & colored chalks on vellum. 13 x 9 ½" (33 x 23.9 cm).**

The work in question is a small —13 x 9 ½ inch—mixed media drawing of a young woman in profile, executed in ink, colored chalk, and gouache on vellum laid down on oak panel **(FIG. 1)**. In what is now a familiar story, Peter Silverman, a Paris-based collector who was the underbidder for the drawing at the auction, acting on a hunch that the drawing was, in fact, by Leonardo, purchased it from Ganz in 2007 for approximately the same amount that Ganz originally paid for it.[1] In 2008, Silverman sent the drawing for radiocarbon dating to the Swiss Federal Institute of Technology in Zurich. Tests showed that the vellum dated from 1440-1650, well within Leonardo's dates of activity.

Silverman then contacted Nicholas Turner, former Keeper of Drawings at the British Museum, and Martin Kemp, Professor Emeritus at Oxford and a leading authority on Leonardo, who, after examining and researching the drawing, attributed it to Leonardo. In a book released this spring, *La Bella Principessa*,[2] Kemp and his co-author, Pascal Cotte, lay out the art historical and scientific evidence in support of the attribution. The public had a chance this summer to see the work for itself, while it was on exhibit in Goteborg, Sweden as a newly discovered Leonardo.[3]

But is it? Many prominent scholars dispute the Leonardo attribution, and some question whether the drawing is even from the Renaissance. Christie's has moved to

[1] Silverman continues to insist that he purchased the drawing on behalf of an anonymous Swiss collector, although it is widely suspected that Silverman himself owns the work.

[2] Martin Kemp and Pascal Cotte, *La Bella Principessa: The Profile Portrait of a Milanese Woman* (London: Hodder & Stoughton, 2010).

[3] "And There was Light: The Masters of the Renaissance Seen in a New Light," Goteborg, Sweden (March 10 - August 15, 2010). This traveling exhibition is scheduled to tour the world for eight years.

dismiss the case, primarily based on a statute of limitations defense. It has also argued that the technology on which the new attribution is based—a reattribution it still contests—did not exist when it auctioned the work in 1998. If Marchig's case ends up going to trial, a judge or a jury will have to decide whether Christie's is liable for damages based on an attribution that is still the subject of scholarly debate.

LA BELLA PRINCIPESSA OR JUST ANOTHER PRETTY FACE?

In her Complaint, Marchig recounts that her late husband, Giannino Marchig, an artist and art restorer, believed the drawing to be by the 15th century Florentine painter, Domenico Ghirlandaio. Marchig informed Christie's of this at the time of consignment, but François Borne, Christie's then resident expert of Old Master drawings (now an art advisor in London), "after examining the drawing for only about fifteen minutes," attributed it to an early 19th century artist of the German School. [4] He further suggested that Marchig change the frame to make the drawing seem "an amateur object of the 19th century and not an Italian pastiche."[5] Marchig says she reluctantly acceded to Borne's attribution, relying on his expertise in Old Master drawings.

Borne evidently assumed the drawing to be the work of a Nazarene artist, one of a group of early 19th century German painters who worked in a revivalist Italian Renaissance style. Kemp, however, insists that, given the portrait's subtlety and detail, we are "dealing with the 'real thing', not with the skilled work of a 19th century pasticheur." [6]

Kemp points to the exquisite handling of the hair, which swells in response to the tight constriction of her headdress, and the way the ear "plays a subtle game of hide and seek below the gentle waves of her hair," as evidence of Leonardo's superlative draftsmanship.

Cristina Geddo, a specialist on Leonardo's followers, is also convinced that the drawing's left-handed shading (Leonardo was left-handed) and superb quality of execution indicates the hand of the master, and not one of his students or imitators, none of whom possessed either the "subtlety of vision" exhibited in the drawing, or was left-handed.

"The use of vellum is unprecedented in Leonardo's work."

Scholars who find the drawing's style to be consistent with Leonardo must concede that its materials are not. In particular, the use of vellum is unprecedented in Leonardo's work. Kemp argues that following the arrival of the French artist, Jean Perréal, in Milan in 1494, Leonardo became interested in learning the French technique of using colored chalks on vellum. On a page in the *Codex Atlantico,* Leonardo included the following on a "to do" list: "Get from Jean de Paris [Perréal] the method of dry coloring...and how to make coated sheets," which Kemp interprets as prepared animal skins.[7]

Proponents suggest that Leonardo chose vellum for this drawing because it was to be bound in a book of verses in honor of the sitter, who they say, based on her strict profile, hairstyle, and costume, was probably a member of the powerful Sforza family. Kemp identifies her as Bianca Sforza (ca. 1482–1496), the illegitimate daughter of Ludovico Sforza, Duke of Milan, and suggests that the drawing was part of a manu-

4 *Marchig v. Christie's Inc.*, No. 10-CV-03624, Amended Complaint (S.D.N.Y. filed Aug. 13, 2010). The original Complaint was filed May 3, 2010.

5 Marchig's Complaint asserts that Christie's changed the frame without her authorization, sold the work in 1998 with the changed frame, and failed to return the drawing's original Italian Renaissance frame to her. She is demanding immediate return of the frame or, in the event the frame is no longer in Christie's possession, the frame's present value.

6 Kemp and Cotte, p. 28.

7 *Ibid.*, p. 36. From the "Ligny Memorandum," *Codex Atlantico* (Milan, Biblioteca Ambrosiana).

script dedicated to Bianca on her marriage in 1496, or possibly upon her death only four months later.[8] This scenario also explains the drawing's problematic lack of provenance: following Ludovico Sforza's exile from Milan in 1499, the argument goes, Leonardo's portrait of the tragic young princess remained "buried in a bound codex," and was forgotten.

PROVENANCE

Very little is known about the drawing's provenance before 1998. According to the court documents, Marchig claims that her late husband owned the work when they married in 1955. She has never publicly stated when or where he acquired the drawing.

The only other clue regarding the painting's ownership history is the presence of several 20th century French export stamps on the back of the panel, indicating that at some point, the drawing was in France. And while Nicholas Turner whimsically suggests that the drawing might have remained hidden in a French château for 500 years, he acknowledges that this is conjecture.

The drawing is not cited in any of the voluminous Leonardo documentation. It has been suggested that two drawings, "Head of a Young Lady with Plaited Locks" and "Head in Profile with Beautiful Hair," listed in an inventory of Leonardo's possessions from the early 1480s, could refer to the drawing.[9] However, the date of the inventory does not correspond to Kemp's dating of the portrait to the mid-1490s, and, more importantly, predates Jean Perréal's visit to Milan, and Leonardo's subsequent inquiries into the use of colored chalks on vellum.

THE SCIENCE BEHIND THE ATTRIBUTION

In her Complaint, Marchig asserts that there is "overwhelming . . . forensic and scientific evidence" that the drawing is by Leonardo, and that Christie's negligently failed to use technology when it evaluated her work. For its part, Christie's argues that much of the scientific evidence used to support the attribution to Leonardo was obtained using new technology that was unavailable when it sold the work in 1998.

The new technology Christie's refers to is a multi-spectral high-definition camera — developed by Pascal Cotte of Lumière Technology in 1998 — which takes a series of extremely high resolution images in a variety of different light conditions (including ultraviolet, infrared, and false color) to reveal minute details, underdrawings, and pentimenti invisible to the naked eye.

FIGURE 2. Detail showing the left-handed shading of the face and background hatching. Photo: Lumière Technology, *La Bella Principessa.*

In a written statement from 2008, Turner hailed Lumière's digital scans as "one of the most exciting discoveries in the field of Leonardo studies in recent years," and a "starting point for any consideration of [the drawing's] quality." He noted that the high resolution images allow the viewer to appreciate the drawing's exceptional quality and detail; fine left-handed shading in the face; and parallel hatching of the background —"signature features" of Leonardo's style, better than first-hand

8 In his 2009 monograph, Alessandro Vezzosi identified the sitter as possibly Bianca Maria Sforza (1472-1510), niece of Ludovico Sforza, and suggested that the drawing was made upon the occasion of her wedding to Emperor Maximilian I, in 1494. Kemp argues, however, that the young woman in the new drawing bears no resemblance to portraits of Bianca Maria. See Alessandro Vezzosi, *Leonardo infinito: La vita, l'opera completa, la modernitá* (Bologna: Scripta Maneant, 2008), and excerpt at http://www.lumiere-technology.com.

9 *Ibid.*

FIGURE 3. Detail of the fingerprint in the upper left corner of the vellum. Photo: Peter Paul Biro, *La Bella Principessa.*

examination alone **(FIG. 2)**.

Lumière's scans also revealed the full extent of later restorations and retouchings in the face, hair, and knot pattern of the sleeve, interventions which may have obscured the original artist's skilled draftsmanship and obsessive attention to detail. (Marchig's husband was an art restorer, but no public statement has been made as to whether *he* made the interventions.)

DISCOVERING THE MASTER'S HAND (OR FINGER?)

The multi-spectral scans exposed a palm print on the sitter's neck and a partial stamped print of an index finger in the upper left corner of the vellum **(FIG. 3)**. Cotte sent an image of the fingerprint to forensic conservator Peter Paul Biro in Montreal, who declared that it was similar to prints found in Leonardo's *St. Jerome* (Vatican) and *Portrait of Ginevra de'Benci* (National Gallery of Art).

Biro, who has no formal training in fingerprint analysis, is a controversial figure in the art world for his investigation of fingerprints he claims to have matched on several works purported to be by Jackson Pollock. Christie's took issue with Biro's fingerprint analysis before Marchig's lawsuit was even filed. In a September 2009 letter to Marchig, Sandra Cobden, Christie's Senior Counsel, wrote that Biro's claims to have discovered a Pollock "fingerprint on another 'rediscovery' have been greeted with much skepticism here in the U.S."

Much of the media's attention has focused on the fingerprint, and on whether fingerprints in general can be used to determine authenticity. In the case of Leonardo, at least, there is some validity to the claim. Like many Renaissance painters, Leonardo, who was used to painting in the fast drying medium of egg tempera, palpated the still wet oil paint with his hands to create atmospheric *sfumato* effects. Ever since fingerprints were discovered in 1969 on the *Ginevra de'Benci,*[10] they have been identified on other accepted works by the artist, including the *St. Jerome* and the *Lady with the Ermine* (Czartoryski Museum, Cracow). If the fingerprint on the new drawing can be proved to match a print from one of these undisputed works, it would offer compelling, if not conclusive, evidence linking it to Leonardo.

There is no generally accepted standard for a reliable fingerprint match. In the present case, Biro identified 8 points of comparison between the fingerprints found on the drawing and the *St. Jerome.* American law enforcement, however, generally abides by the "12 point rule" in establishing a positive match. Charles Parker, a prominent fingerprint specialist, was recently quoted in a *New Yorker* article about Biro arguing that the smudged partial fingerprint on the drawing was too illegible to allow *any* credible comparisons. He further pointed out that Biro's 8 points of comparison are not "actual overlapping characteristics, just random details."[11] In fact, Biro has backed away from earlier claims that the fingerprints "matched," and now claims only that they are "highly comparable."[12] Silverman, too, has stated that "no claim has been

[10] Thomas Brachert, "A Distinctive Aspect in the Painting Technique of the Ginevra de'Benci and of Leonardo's Early Works," *Report and Studies in the History of Art* (1969), pp. 9-24.

[11] David Grann, "The Mark of a Masterpiece," *The New Yorker* (July 12 & 19, 2010), p. 17.

[12] In a 2009 press release, Kemp asserted that the fingerprint on the new drawing "closely matches a fingerprint in the unfinished *St. Jerome* by Leonardo."

made that the print analysis meets forensic standards."[13]

Christie's argues that the fingerprint—convincing or not—has no bearing on the lawsuit because Lumière's camera was not invented until 1998, and was therefore unavailable when Christie's sold the work. In other words, while Christie's explicitly denies that the drawing is by Leonardo, *even if* the attribution to him can ever be confirmed, the technology to have made that determination didn't exist at the time of consignment.

Marchig takes issue with Christie's "no one could have known" defense, arguing that "a great deal could have been known under then-current standards of technology and connoisseurship."[14] She claims that, at a minimum, Christie's should have been able to date the drawing within a margin of error of less than 400 years, and to tell the difference between a German drawing and an Italian one. She also claims that Christie's breached its fiduciary duty to her in failing to use technology available at the time of consignment (such as carbon dating) to ascertain the drawing's correct age.

THE QUEST FOR CONSENSUS

The question of the drawing's authenticity will not be decided on the fingerprint evidence, but by a consensus of opinion among Leonardo scholars. Consensus has not been reached. In addition to Kemp, Turner, and Geddo, other distinguished scholars who attribute the drawing to Leonardo are: Alessandro Vezzosi, Director of the Museo Ideale Leonardo da Vinci; Mina Gregori, Professor Emeritus at the University of Florence; Claudio Strinati, former head of the City of Rome Museums; and Carlo Pedretti, Professor Emeritus of Leonardo Studies at UCLA.

Other prominent Leonardo specialists remain unconvinced. In a 2008 statement to *The New York Times,* Carmen Bambach, Curator of Drawings at the Metropolitan Museum and curator of a major Leonardo drawings exhibition in 2003, noted that the drawing simply "does not seem to resemble the drawings and paintings by the great master."[15] Likewise, Pietro Marani, author of a catalogue raisonné of Leonardo's works, after viewing the drawing in person, declared that it is not compatible "either in technique or in style" with Leonardo.[16]

Many scholars find the use of vellum in the portrait drawing troubling; of the over 4,000 drawings, sketches, and studies by Leonardo, not one is executed on vellum. And while the vellum in the new drawing dates to the late 15th to early 16th century, that doesn't preclude it from being a 19th or 20th century work executed on an old sheet of vellum.

The skeptics also contend that the interlace design on the sitter's costume appears mechanical; the contour line of the face is too clearly defined; and the overall execution of the figure is tight and inconsistent with Leonardo's style.

Klaus Albrecht Schröder, Director of the Albertina Museum in Vienna, told *ARTnews* that the Albertina refused to exhibit the work because they were unconvinced that it was by Leonardo. He added that the drawing had been examined in their research center by curators and conservators from both the Albertina and the Vienna Academy of Fine Arts and, "No one is convinced that it is a Leonardo."[17]

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[13] Letter to the Editor, *The New Yorker* (August 2, 2010).

[14] *Marchig v. Christie's, Inc.*, No. 10-CV-03624, Memorandum of Law in Opposition to Motion to Dismiss (S.D.N.Y. filed June 24, 2010).

[15] Elisabetta Povoledo, "A Portrait by Leonardo? Scholars and Skeptics Differ," *The New York Times* (August 23, 2008). In a 2009 email to the author, Bambach stated, "My quoted opinion in *The New York Times*...still entirely holds."

[16] Richard Dorment, "La Bella Principessa: A £100m Leonardo, or a Copy?" *Daily Telegraph* (April 12, 2010).

[17] Milton Esterow, "Is She or Isn't She the Real Thing?" *ARTnews,* vol. 109, no.1 (January 2010), p. 84.

Likewise, Nicholas Penny, Director of the National Gallery in London; Everett Fahy, former head of European Paintings at the Metropolitan Museum; and Martin Clayton, Keeper of Drawings in the Royal Collection, Windsor Castle, also reportedly reject the attribution.[18]

LITIGATION

The attribution debate may never even enter into the court's judgment, as Christie's is arguing for immediate dismissal on statute of limitations grounds. It contends that, of Marchig's claims, the longest possible limitations period would be six years from the 1998 sale. Based on this interpretation, Marchig was required to bring suit by January 2004.

Not so, says Marchig, who believes the limitations period did not begin until 2009, when Noël Annesley, Honorary Chairman of Christie's, first told her that the drawing had been attributed to Leonardo. How, she argues, could it have begun to run before then? Without any knowledge of the new attribution, she "would have had nothing to sue on."[19]

If that logic doesn't sway the court, Marchig also makes the novel argument that Annesley's communications with her about the new attribution represented Christie's tacit acknowledgement that it had a continuing duty to represent her interests. Under the doctrine of "continuous treatment" (also known as the doctrine of "continuous representation"), the statutes of limitations would not begin to run until Christie's severed its ties with her in 2009.

At oral arguments on August 5, Judge John G. Koeltl emphasized that the doctrine of continuous treatment—typically invoked in cases of medical malpractice—has never been applied to auction houses, and it was unlikely that this case warranted such an expansion. Nevertheless, he agreed to allow Marchig to amend her Complaint in response to issues raised by Christie's at the hearing because a plaintiff's first request to amend is generally granted. He cautioned Marchig to make this amendment "as good as it gets," because "two bites of the apple" would be her limit. As *IFAR Journal* went to press, Marchig had submitted her Amended Complaint and Christie's had just filed its response. The issues remained essentially the same. The court will likely revisit the renewed motion to dismiss by Christie's later this fall.

LESSONS FROM THE PAST

Even if Marchig's case is allowed to continue to trial, the attribution to Leonardo will not be resolved in a court of law. Let us recall that the most infamous court battle over authenticity involved another purported Leonardo "Belle," *La Belle Ferronnière*. In 1921, Harry and Andrée Hahn sued art dealer Joseph Duveen for slander of title after Duveen told a reporter, without having seen the work, that their painting of *La Belle Ferronnière* was merely a copy of the painting of the same name in the Louvre. Duveen rallied a host of art experts who all agreed that the Hahns' painting was a copy, but the jury remained unimpressed when the experts could not provide hard evidence to back up their testimony. The trial ended with a hung jury, and rather than face a retrial, Duveen settled out of court, paying the Hahns approximately $60,000 in damages.

The settlement, however, failed to change the experts' opinions of the work's attribution, and today no scholar believes it is by Leonardo. This January, the final verdict on the Hahns' painting was handed down in the auction room. It was sold at Sotheby's as by a "follower of Leonardo da Vinci, probably before 1750" for $1.5 million—far below what an authentic Leonardo would have brought.

— LISA DUFFY-ZEBALLOS AND SHIMA MAJIDI, ESQ.

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[18] Dorment, op cit.

[19] *Marchig v. Christie's, Inc.*, No. 10-CV-03624, Memorandum of Law in Opposition to Motion to Dismiss (S.D.N.Y. filed June 24, 2010).

MUM'S THE WORD ON PICASSO SETTLEMENTS WITH MOMA, THE GUGGENHEIM AND THE ANDREW LLOYD WEBBER FOUNDATION

SETTLEMENT LEADS TO WEBBER FOUNDATION'S SALE OF PICASSO'S *DE SOTO*

In June, a Blue Period Picasso **(FIG.1)** belonging to composer Andrew Lloyd Webber's art foundation finally made it to auction at Christie's, London.[1] The painting — a portrait of Picasso's close friend Angel Fernandez de Soto — had been pulled at the last minute from sale at Christie's, New York in 2006 after Julius Schoeps declared that his great-uncle, Paul von Mendelssohn-Bartholdy — grandson of *another* famous composer, Felix Mendelssohn — had been forced to sell it in Germany during the Nazi era. Schoeps' claim for restitution subsequently failed in both federal and state court in New York.[2] Although that would seem to have settled the matter, the Andrew Lloyd Webber Art Foundation entered into a confidential settlement with Schoeps this past February to disperse the "cloud of doubt" he had cast over the work, clearing the way for the June auction.

Perhaps Webber's foundation felt it had no choice but to settle after the outcome of another Schoeps restitution case. In 2008, Schoeps and other heirs of Mendelssohn-Bartholdy sent letters to New York's Museum of Modern Art ("MoMA") and the Guggenheim, claiming that two early Picassos in their collections had also been sold under duress: *Boy Leading a Horse* **(FIG. 2)**, a jewel of MoMA's collection for more than forty years, and *Le Moulin de la Galette* **(FIG. 3)**, part of the Guggenheim's Thannhauser Collection since 1978. In response, the two museums joined forces to bring a declaratory action against the heirs, asking a federal judge to declare them the rightful owners of the paintings. The heirs counterclaimed for conversion and replevin.

FIGURE 1. PABLO PICASSO (Spanish, 1881-1973). *Portrait of Angel Fernandez de Soto (or The Absinthe Drinker)*, 1903. Oil on canvas. 27 5/8" x 21 3/4". © 2010 Estate of Pablo Picasso / Artists Rights Society (ARS), NY.

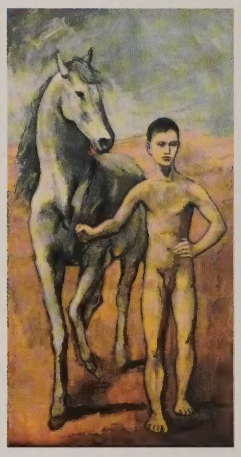

FIGURE 2. PABLO PICASSO. *Boy Leading a Horse*, 1905-06. Oil on canvas. 7' 2 7/8" x 51 5/8". The William S. Paley Coll. The Museum of Modern Art, New York. © 2010 Estate of Pablo Picasso / Artists Rights Society (ARS), NY.

Hoping that the judge would quickly rule in their favor on purely legal grounds, and convinced that Mendelssohn-Bartholdy had sold the Picassos voluntarily by 1935 (to the Jewish art dealer Justin Thannhauser, who owned a gallery in Lucerne), the museums filed a motion in federal court for summary judgment and dismissal of Schoeps' claims. But Judge Jed S. Rakoff denied their motion, finding that a jury would need to make a determination on ownership after sorting through

[1] Christie's, London, 23 June 2010, lot # 8. It sold to an unidentified buyer.

[2] The federal court dismissed the case because it lacked jurisdiction to hear the claims. *Schoeps v. Andrew Lloyd Webber Art Foundation*, No. 06-CV-12934 (S.D.N.Y. Nov. 7, 2006). Schoeps's subsequently filed suit in state court and lost because he was not an appointed representative of his great-uncle's estate, a necessity for bringing claims on the estate's behalf in New York. *Schoeps v. Andrew Lloyd Webber Art Foundation*, 851 N.Y.S.2d 74 (N.Y. Sup. Ct. 2007), upheld on appeal by the New York Appellate Division, First Department, on August 11, 2009.

the disputed factual issues about the Nazi-era sales. Significantly, he decided that German law would apply to the 1935 sale to Thannhauser, and under the German Civil Code of 1900, a contract may be declared invalid if it is entered into when one party is at a distinct disadvantage in bargaining. A jury, the judge said, might infer from "the historical circumstances of Nazi economic pressures brought to bear on 'Jewish' persons and property" that the sale was made under duress.[3] He also decided that New York law rather than Swiss law would apply to the subsequent 1936 sale in Switzerland of *Boy Leading a Horse* by Thannhauser to William Paley, who donated the work to MoMA. New York law is more protective than Swiss law of the rights of original owners over "good faith" purchasers. Rather than leave the fate of their two prized Picassos in the hands of a jury, the museums settled with the heirs on the first morning of the trial, retaining ownership of the paintings in exchange for an undisclosed sum.

The confidential nature of the settlements angered Judge Rakoff (and many others), who publicly rebuked Schoeps and the museums in a scathing written opinion. In response, the museums reversed course and agreed to waive confidentiality, but the heirs didn't budge, for reasons Judge Rakoff described as "wholly unexplained and seemingly no more compelling than concealing the amount of money going into their pockets."[4] It is clear that Rakoff would have ordered the heirs to reveal the terms of the settlement had he not been constrained by Second Circuit precedent, which strongly endorses the confidentiality of settlement agreements. He docketed a copy of the settlement under seal, in the hopes that the heirs, after having "a greater opportunity to reflect on their public responsibilities," would move to unseal it.[5] As of yet, they have made no move to do so.

With three paintings "down," it is unknown what Schoeps' next steps will be, but a 2008 article in *Der Spiegel* may provide a hint. Schoeps and his lawyer told the publication that they have made restitution claims for at least two more Picassos: *Madame Soler,* a painting in the Neue Pinakothek in Munich, and a drawing entitled "Head of a Woman," in the National Gallery in Washington.[6]

As to Andrew Lloyd Webber's Picasso, the Schoeps claim and ensuing delay did not, it would appear, help his Foundation's bottom line. He purchased the portrait in 1995 (Sotheby's 8 May 1995, Lot #14) for $29,152,500 (including buyer's premium) and sold it for $46.3 million — at the low end of the $40 – $60 million estimate. This was considerably less than it would likely have sold for at the height of the market in New York in November 2006, at a Christie's sale that set auction records for four Klimts restituted from Austria to Maria Altmann. When the undisclosed settlement fee that Webber paid to Schoeps and the other heirs is factored in, it is safe to assume that Webber's Foundation did not make much of a profit, if any.

FIGURE 3. PABLO PICASSO. ***Le Moulin de la Galette,*** **autumn 1900. Oil on canvas. 34 3/4" x 45 1/2". Solomon R. Guggenheim Museum, NY – Thannhauser Collection. © 2010 Estate of Pablo Picasso / Artists Rights Society (ARS), NY.**

— SHIMA MAJIDI, ESQ. and SHARON FLESCHER

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[3] *Schoeps v. Museum of Modern Art*, 594 F. Supp. 2d 461, 466 (S.D.N.Y. 2009).

[4] *Schoeps v. Museum of Modern Art*, 603 F. Supp. 2d 673, 675 (S.D.N.Y. 2009).

[5] *Id.* at 676.

[6] Michael Sontheimer, "European Heirs Demand New York Museums Return Picassos," *Der Spiegel* (Aug. 20, 2008).

CODA TO THE SCHIELE DISPUTE: SETTLEMENT IN *PORTRAIT OF WALLY* CASE

PAINTING BACK TO AUSTRIA

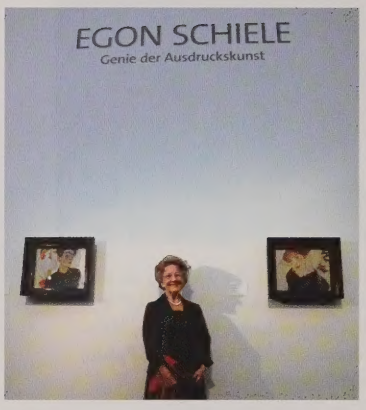

FIGURE 1. Mrs. Leopold in front of Egon Schiele's *Portrait of Wally* and *Self-Portrait* in the Leopold Museum on August 23, 2010. Photo: AP/Hans Punz.

It took 12 years, but, in July, on the eve of trial, a settlement was reached between the U.S. Government, the heirs of Leah Bondi-Jaray and the Leopold Museum in Vienna in the ownership dispute over Egon Schiele's *Portrait of Wally.*

IFAR has written about this case on many occasions (See *IFAR Journal,* Vol. 11, nos. 2, 3&4; Vol. 4/5 nos. 4/1), and it has been covered extensively in the general press. It is simply left to note that, under the agreement, the Bondi-Jaray estate released its claim to the painting, which a federal court in New York in 2009 determined was stolen from Leah Bondi-Jaray by a Nazi agent in Austria in the 1930s; the U.S. Government dismissed its forfeiture action; and the Leopold Museum agreed to pay the Bondi-Jaray family $19 million to retain the work. (When the case started, the painting was valued at approximately $1 million.) The Museum also agreed to display signage permanently next to the painting describing its WWII-era provenance and the findings of the U.S. court.

The legal dispute over the painting — a 1912 portrait of Schiele's model and lover, Valerie Neuzil, known as Wally — began when the Leopold Museum lent the work to a Schiele exhibition at MoMA in New York in 1997. While there, it was claimed by the heirs of Bondi-Jaray, and, in January 1998, was seized first by New York and then by federal authorities. Years of court hearings and rulings ensued, and the case was finally set to go to trial on July 26, with only one legal issue left to be determined: Did Dr. Rudolf Leopold "know" the work was stolen when he acquired it? To the end, he denied any wrongdoing. But Leopold died on June 29 at the age of 85, and a settlement was reached soon after, on July 20.

On July 29, the painting was put on temporary display at the Museum of Jewish Heritage in New York before its return to Austria. The day's events were ushered in by a moving ceremony featuring representatives of the Bondi family, the U.S. Attorney's office, and others, including Robert Morgenthau, the former Manhattan District Attorney whose actions in January 1998 spearheaded the subsequent legal events. In his remarks, Morgenthau noted that, at the time, "many claimed that [his] actions would have a chilling effect on the free exchange of art," but that the "last ten years have shown otherwise."

As if to symbolize the emotional as well as legal end to the case, Elisabeth Leopold, Rudolf's widow, also attended the event, although not as a speaker. But she did make some informal remarks in front of the painting, which, by then, was "unquestionably" owned by the Museum founded by her late husband.

On August 23rd, the painting was back in Vienna and on display next to its "companion" work, Schiele's *Self-Portrait with Chinese Plant,* of the same date, and similar dimensions and media **(FIG. 1)**. It was, in part, the museum said, to exhibit the works together that it was so determined to keep the painting.

— S. F.

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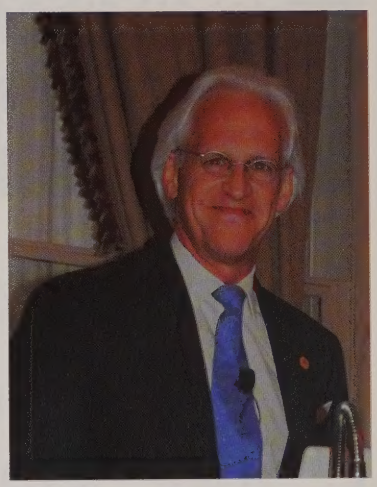
THE INVISIBLE HEROES: THE MONUMENTS MEN

An *IFAR Evening*, April 26, 2010

ROBERT M. EDSEL*

EDITOR'S NOTE:

In April, IFAR held an IFAR Evening at the beautiful Union League Club in New York, in cooperation with the Union League Club and the American Council on Germany. The speaker was Robert M. Edsel, Founder and President of the Monuments Foundation and author of two books about this small group of military men (and women) who helped find, protect and restitute Europe's cultural treasures during and after World War II. IFAR was honored to have in the audience Harry Ettlinger, one of the nine still-living Monuments Men, and Anne Rorimer, daughter of another Monuments Man, the late James Rorimer, who went on to become Director of the Metropolitan Museum. The talk — replete with dozens of images and video excerpts — was followed by a reception in the Club's Library. We are very grateful to Chubb Personal Insurance for its underwriting support of this event. The following is an edited version of Mr. Edsel's talk and the q & a that followed.



The story of the Monuments Men — these remarkable heroes of civilization, who belonged to the Monuments, Fine Arts and Archives (MFAA) section of the military — is, sadly, one we do not know much about. We are going to address why they have been "invisible" heroes, but, first, let me explain who they were. These men — and women — were museum directors, curators, art historians, architects, librarians, and archivists, who volunteered for service. There were only thirty-five or so Monuments Men responsible for all of Italy, and no more than eighty were in Northern Europe by the end of the war in 1945 tasked with protecting all the cultural treasures in continental Europe. About 70 percent were American, 30 percent British, but eleven other countries were also represented. As such, it represented a novel experiment; it was the first time in history that an army attempted to fight a war on the one hand and to mitigate damage to cultural treasures on the other. In a break with civilization at the end of the war, they implemented the policy of the western Allies, which was to return to the country from which they were taken those items that had been stolen: To the victors do *not* belong the spoils of war.

"To the victors do *not* belong the spoils of war.... The instruments of that policy were the Monuments Men."

The average age of the Monuments Men was mid-forties. Most had established careers before they joined the military; many were in the museum and educational world. Many also had families. They walked away from these privileged positions and risked everything because they believed that they, too, had an important role to play in the war. Lest you think they were sitting in an office somewhere telling other people how to do it, two were killed during combat; many others had close calls. So an overriding question now should be: how do we find ourselves, sixty-five years later, not knowing about this history? And what is the price that we have paid as a nation for not knowing it?

* Robert M. Edsel is author, with Bret Witter, of *The Monuments Men: Allied Heroes, Nazi Thieves, and the Greatest Treasure Hunt in History* (2009) and *Rescuing Da Vinci: Hitler and the Nazis Stole Europe's Great Art; America and Her Allies Recovered It* (2006). He is also the Founder and President of the Monuments Men Foundation for the Preservation of Art and co-producer of the documentary, *The Rape of Europa*.

FIGURE 1. BARTOLOMÉ ESTEBAN MURILLO. (Spanish, 1617/18-1682). *Saint Rufina,* c. 1665. Oil on canvas. Looted during WWII. Now in the Meadows Museum, Southern Methodist University, Dallas, TX. Algur H. Meadows Collection, 72.05.

FIGURE 2. BARTOLOMÉ ESTEBAN MURILLO. *Saint Justa,* c. 1665. Oil on canvas. Looted during WWII. Now in the Meadows Museum, Southern Methodist University, Dallas, TX. Algur H. Meadows Collection, 72.04.

Let us begin in Baghdad, in the aftermath of the 2003 looting in the National Museum of Iraq. We recall horrific scenes after the fiasco, not just at the National Museum, which drew most of the focus, but also at the National Archives and National Library. Objects in these buildings were either stolen, destroyed or flooded. It is difficult for people in the United States, which has become digital, to appreciate that 95 percent of the people in the world depend on documents to run their societies. And whose problem does it become if documents like these are destroyed? In this instance, the American army, because it had to find a way to run a society without the documents. That is one of the reasons why such an effort was made during World War II not just to win the war, but to make sure that the defeated countries functioned afterwards.

Now for a tale of two cities. When I make a call to a museum to discuss anything that involves the word "Nazi," it is something like Mike Wallace explaining to a business executive that he's just there for a friendly interview. But in fact that was the case regarding two world-class Murillo paintings, *Saint Rufina* **(FIG. 1)** and *Saint Justa* **(FIG. 2)**, now in the collection of the Meadows Museum at Southern Methodist University. Several years ago, in the process of putting together the collection of images for my first book, *Rescuing Da Vinci,* I came across an old photo showing one of the Murillos, *Saint Justa,* in the studio of Martha Klein, the leading Nazi restorer **(FIG. 3)**. The Murillo was one of several hundred paintings in a Nazi repository in Buxheim, Bavaria

FIGURE 3. Nazi restorer Martha Klein's studio showing Murillo's *Saint Justa,* May 1945. Photo: National Gallery of Art, Gallery Archives.

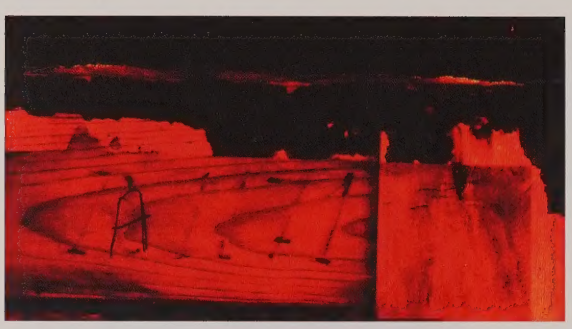


FIGURE 4. Enhanced infrared photo of the back of Murillo's *Saint Justa* showing the ERR code "R1171." Photo: Courtesy, Monuments Men Foundation.

FIGURE 5. Munich Collecting Point showing Murillo's *Saint Rufina*, Titian's *Danae*, and Brueghel's *Blind Leading the Blind*. Photo: National Gallery of Art, Gallery Archives.

that Klein oversaw, where many of the artworks looted from France were stored. The photo begged the question, how in the world did this Meadows picture get there when the Meadows provenance makes no reference whatsoever to the painting having been stolen during the war?

"How do we find ourselves, sixty-five years later, not knowing about this history? And what is the price that we have paid as a nation for not knowing it?"

So after completing that book and beginning *The Monuments Men,* we did some more research, initially, just out of curiosity. We found an ERR index card indicating that *Saint Justa* had been stolen from the Rothschild family and assigned the ERR index code number R1171.[1] We contacted the university in 2006, which allowed us to look at both pictures. They didn't believe there were any relevant markings on the back. But there was a letter "A" visible, and in the upper corner was the ERR number R1171 **(FIG. 4)**.

I found an image of the other work, the *Saint Rufina,* while preparing *Rescuing Da Vinci.* It shows the painting flanked by Titian's *Danae* and Pieter Breughel's *The Blind Leading the Blind* at the Munich Collecting Point set up by the MFAA after the war **(FIG. 5)**. The Titian and the Brueghel were both stolen by Goering's soldiers from the repository at the abbey near Monte Cassino; they in fact belong to the Capodimonte Museum in Naples. The back of the stretcher of the *Saint Rufina* had an area that had been sanded-off, many years ago after the war, which, under infrared, revealed faint remnants of an ERR number.

Although straightforward, this research took more than three years and there were some wounded egos before we issued a press release last fall to force this issue out in the public. I believed at the outset, and remain of the opinion today, that the two Murillos were properly restituted, but a number of steps still need to be taken to document that. The published provenance was wrong, through no fault of anyone at SMU, but there was a great reluctance to address it and do the necessary research. That is part of the ongoing mission of the Monuments Men Foundation: to encourage museums to comply with the American Association of Museums' (AAM) guidelines. Note the word "encourage." Our mission statement does not say "do combat with," or "coerce." We strive for cooperation; we like to be welcomed.

Museum officials initially told me they were "not a member of AAM." My response was, "Do yourself a favor; don't tell anybody that you said that." That is not what the AAM guidelines are about. The guidelines exist to encourage art museums to do the right thing, to understand what is in their collection; to take works off the wall and look at the back. We heard

[1] The Einsatzstab Reichsleiter Rosenberg (ERR), organized in 1940 under Alfred Rosenberg, was in charge of the systematic looting of artworks from Jewish collections in France.

FIGURE 6. NICOLAS DE LARGILLIÈRE (French, 1665-1746). *Portrait of Mlle. Duclos in the Role of Ariadne, c.* 1712. Oil on canvas. Now at The Speed Art Museum, Louisville, KY (1966.5).

explanations such as, "We can't discuss this; it creates issues of confidentiality." I found that very curious; every document I have is in the public domain. There are a lot of reasons *not* to do this, but the best reason *to* do it is that it is the right thing to do. That is what the Monuments Men did during World War II.

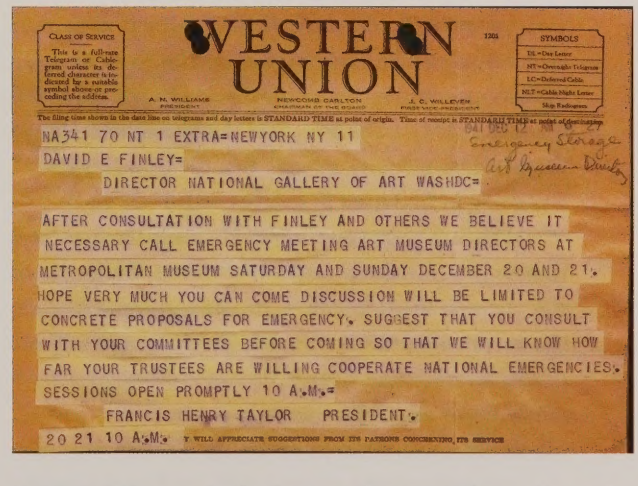
SMU is now working very hard to do the necessary research in archives in Paris and other cities, but that work hasn't received the visibility that it should. The Foundation is not *looking* for cases such as these, but, as I said, sometimes they find us in the course of our research about the Monuments Men. We have a responsibility, I believe, to live up to the mission statement of the Foundation and to continue the legacy of these fine men and women. That means bringing the situation to people's attention, even if at times it is uncomfortable for us to do so.

In contrast, the Speed Art Museum in Louisville, where I spoke last fall, had two works of art that were stolen during the war and properly restituted. One was a Largillière **(FIG. 6)** that was taken from a branch of the Rothschild family. It was recovered by the Monuments Men, returned to the family and later sold, and subsequently donated to the museum. The museum wanted me to mention this during my remarks that night so that their donors and trustees were aware of it. In other words, they were looking at this not as something to steer away from but to embrace, because many people who go to museums might not understand the importance of the works of art, but they can connect with the fact that somebody had something stolen from them during World War II.

> "There are a lot of reasons *not* to do this, but the best reason *to* do it is that it is the right thing to do."

THE GENESIS

Who are these invisible heroes, and why are they invisible? It all began near here at the Metropolitan Museum. There were concerns — similar to those after September 11, 2001 — about the protection of American cultural treasures in the aftermath of the bombing of Pearl Harbor. Henry Francis Taylor, president of the Association of Art Museum Directors (AAMD) and also director of the Met, and David Finley sent a telegram inviting museum directors across the country to a meeting at the Metropolitan three weeks after the bombing of Pearl Harbor in December 1941 to discuss how to protect our cultural treasures **(FIG. 7)**. Among other museum leaders and cultural figures attending were Paul Sachs of Harvard, the founder of the first museum studies course in the



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DIRECTOR NATIONAL GALLERY OF ART WASHDC=

AFTER CONSULTATION WITH FINLEY AND OTHERS WE BELIEVE IT NECESSARY CALL EMERGENCY MEETING ART MUSEUM DIRECTORS AT METROPOLITAN MUSEUM SATURDAY AND SUNDAY DECEMBER 20 AND 21. HOPE VERY MUCH YOU CAN COME DISCUSSION WILL BE LIMITED TO CONCRETE PROPOSALS FOR EMERGENCY. SUGGEST THAT YOU CONSULT WITH YOUR COMMITTEES BEFORE COMING SO THAT WE WILL KNOW HOW FAR YOUR TRUSTEES ARE WILLING COOPERATE NATIONAL EMERGENCIES. SESSIONS OPEN PROMPTLY 10 A.M.=

FRANCIS HENRY TAYLOR PRESIDENT.

20 21 10 A.M.

WILL APPRECIATE SUGGESTIONS FROM ITS PATRONS CONCERNING ITS SERVICE

FIGURE 7. Telegram alerting museum directors to the meeting at the Metropolitan Museum of Art held on December 20, 1941. Photo: National Gallery of Art, Gallery Archives.

FIGURE 8. ***Winged Victory of Samothrace*** **being wheeled down the Louvre stairs in 1939. Photo: Lynn Nicholas Collection.**

United States, and George Stout, a pioneer, as early as the mid 1930's, in research concerning the conservation and protection of works of art.

"The degree of resources, time and attention siphoned off by the Nazi leaders for their art theft operation is no small story."

Through his friends in German museums, Stout realized that it was only a matter of time before another war was going to take place. He had developed manuals for protecting works of art in wartime, and at various meetings — including the one organized at the Met in 1941 — he presented them to others. He discussed, as if a *fait accompli,* that the United States was going to find itself in another world war and would fight it on European soil. He made the case that, in the absence of proper protections, the great risk was that the U.S. would win the battle and lose the war; in other words, win World War II and in the process become the goat of history for destroying so much of western civilization, a stain that the American military would have to live with forever.

There were various competing plans to appeal to President Roosevelt and the War Department, but, ultimately, it was Stout's plan that survived, with the encouragement of Taylor and Sachs.

After the invasion of Poland in September 1939, museums throughout Europe implemented plans to protect their works of art. At the Louvre in Paris, for example, the works of art were removed by the curators, who put chalk marks on the wall in the hopeful effort that someday the pictures would be re-hung. The initial concern was damage from bombing, not theft. A number of works of art were packed, crated and moved on numerous occasions. The *Mona Lisa* was moved six times before it was returned to Paris in August 1945. The precious and fragile *Winged Victory of Samothrace,* comprised now of thousands of pieces of stone joined together, was gingerly wheeled down the steps of the Louvre **(FIG. 8)** and moved on several occasions in an effort to keep it safe.

What the Monuments Men could not know at that point was the degree of premeditated theft that the Nazis, through many of their museum directors and curators, had set in motion. Hitler was focused on his Führermuseum (the Gemäldegalerie Linz). Even a month and a half before committing suicide, he was showing a scale model of it to visitors in his underground Reichschancellery. From the beginning of his adult life, art was Hitler's passion. As a young man of sixteen or seventeen, he was determined to be recognized as an artist. Throughout his career, he curated shows; removed artworks from German museums; and decided which works of art would go into his collection. Ditto for Hermann Goering. The degree of resources, time and attention siphoned off by the Nazi leaders for their art theft operation is no small story. Hours before committing suicide, Hitler dictated his last will and testament, in which he made no provision concerning either the people or the infrastructure of Germany — he had already implemented the "Nero Decree" ordering Albert Speer to gut the infrastructure of the country. The one bequest he did make was that the pictures he collected during his lifetime go to his museum in Linz. Art was Hitler's earliest ambition, and one of his last thoughts before killing himself. No small story indeed.

In March 1941, President Roosevelt dedicated the new National Gallery of Art in Washington. At the ceremony he said, "To accept these works today is to assert the purpose of the people of the United States. The freedom of the human spirit and the human mind, which has produced the world's great art and all its science, shall not be utterly destroyed." President Roosevelt understood the power of appearances, as did General Eisenhower. First impressions count. They were being pummeled by Nazi propaganda characterizing Americans as barbarians, coming to foreign shores either to destroy the culture of Europe or steal it. General Eisenhower issued historic orders in December 1943 **(FIG. 9)** prior to the full invasion of the Italian mainland, and again prior to the invasion of Normandy in June 1944, saying: "We are bound to respect [the] monuments so far as war allows." The instruments of this policy were the men and women of the Monuments, Fine Arts and Archives section — the Monuments Men.

THREE HEROES

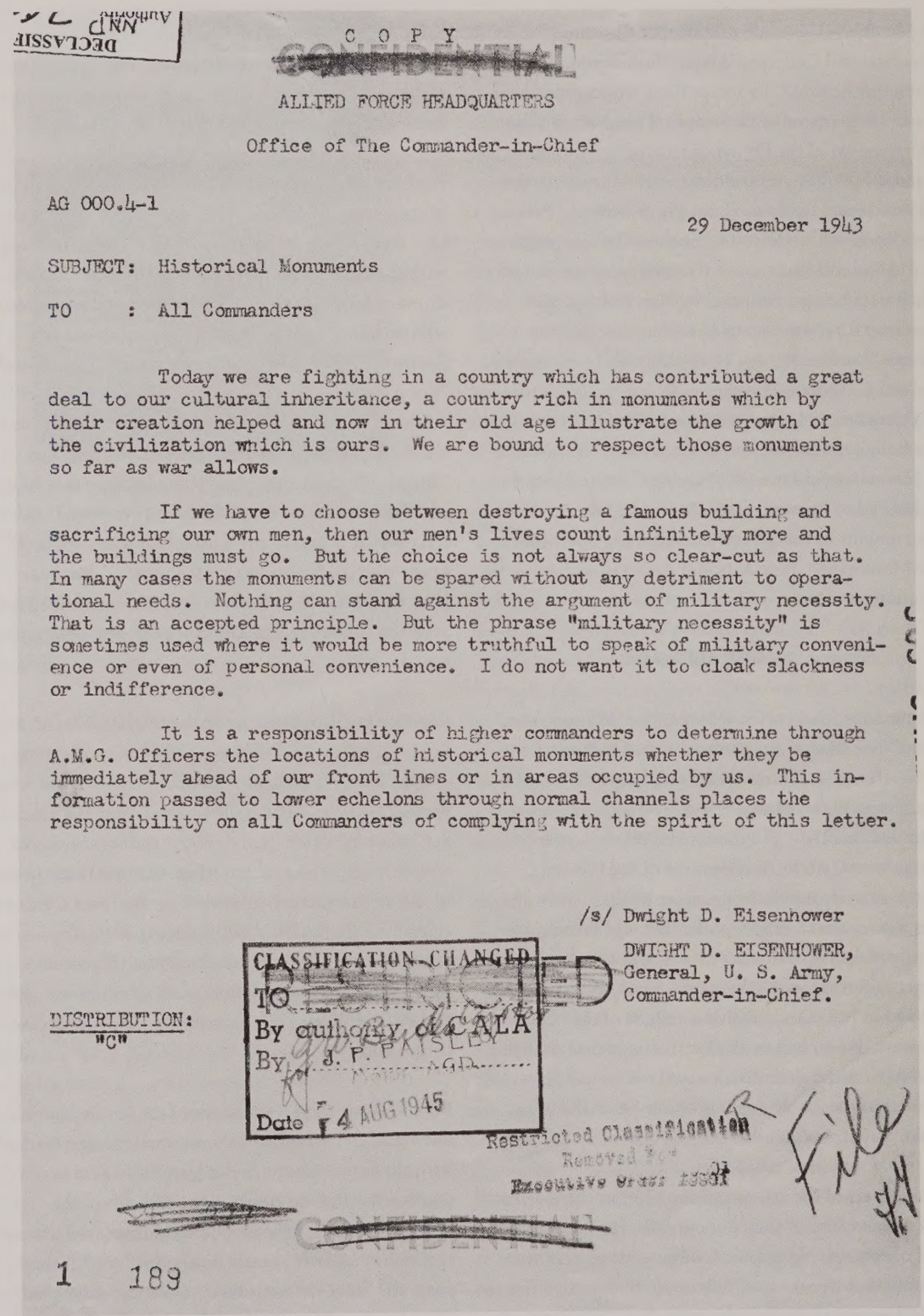
Let me share the stories of two of the "Monuments Men." The first — an appropriate one to begin with in New York — is James Rorimer, future director of the Metropolitan Museum [whose daughter, Anne, attended this IFAR program]. Rorimer had been instrumental in the development of the Cloisters Museum prior to volunteering for military duty. He was a determined Francophile, fluent in French. His family had an apartment in Paris, and he was so eager to get to Europe and help recover works of art that he arrived in Normandy within a month of the Allied invasion. When he saw the horrific scenes of destruction in Saint-Lô and other coastal towns in France, he wanted immediately to get to Mont-Saint-Michel to make sure it was still there.

A huge part of the efficacy of the Monuments Men was due to the fact that they were middle-aged men. They had been given big responsibilities with no resources. I doubt that twenty-year-olds could have pulled this off. They would not have known what to do without resources. But Rorimer did not let the fact that he did not have a car get in his way. He hitchhiked to Mont-Saint-Michel. That is how most of the Monuments officers got around Europe. George Stout, mentioned earlier, had a different solution: he commandeered a Nazi Volkswagen and used that to get around.

Rorimer arrived at Mont-Saint-Michel, and much to his pleasure, it was still there, overrun by American GIs, many of whom were drunk. But after a meeting with the town mayor, and enjoying a drink himself, military police walked up to Rorimer and asked him who he was. He said, "I'm Second Lieutenant Jim Rorimer." "Well, what unit are you with, Lieutenant?" "I'm with the Monuments, Fine Arts and Archives section." "Very good. Would you please put out your hands?" And they promptly arrested him, saying, "That is the most ridiculous thing we have ever heard of. There is no such unit." In fact, there wasn't such a *unit,* which is part of the reason that today we don't know who the Monuments Men were. As Rorimer later explained, the Monuments Men were individuals attached to the various Allied armies, not a designated unit as such.

Rorimer is a pivotal figure in the introduction of Rose Valland, who, I believe, is the greatest heroine of World War II **(FIG. 10)**. She was a civil servant who worked at the Jeu de Paume in Paris, near the Place de la Concorde, which used to house the Impressionist and Post-Impressionist paintings that today are in the Musée d'Orsay. During World War II, it was command central for the Nazis; where so many of the thousands of works of art stolen from French collectors were brought, photographed, catalogued, inventoried, and packed up and put on trains to take back to the Fatherland.

Rose Valland was an employee of the Jeu de Paume during all four years of Nazi occupation. She worked with the express authority of Jacques Jaujard — another hero of our book — the director of the French National Museums. Rose Valland understood German; the Germans did not know that. For four years she made notes and secret entries; she copied shipping manifests. This woman, who worked two different jobs, loved art and was determined to protect the patrimony of her country. She was there when



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ALLIED FORCE HEADQUARTERS

Office of The Commander-in-Chief

AG 000.4-1

29 December 1943

SUBJECT: Historical Monuments

TO : All Commanders

Today we are fighting in a country which has contributed a great deal to our cultural inheritance, a country rich in monuments which by their creation helped and now in their old age illustrate the growth of the civilization which is ours. We are bound to respect those monuments so far as war allows.

If we have to choose between destroying a famous building and sacrificing our own men, then our men's lives count infinitely more and the buildings must go. But the choice is not always so clear-cut as that. In many cases the monuments can be spared without any detriment to operational needs. Nothing can stand against the argument of military necessity. That is an accepted principle. But the phrase "military necessity" is sometimes used where it would be more truthful to speak of military convenience or even of personal convenience. I do not want it to cloak slackness or indifference.

It is a responsibility of higher commanders to determine through A.M.G. Officers the locations of historical monuments whether they be immediately ahead of our front lines or in areas occupied by us. This information passed to lower echelons through normal channels places the responsibility on all Commanders of complying with the spirit of this letter.

/s/ Dwight D. Eisenhower

DWIGHT D. EISENHOWER,
General, U. S. Army,
Commander-in-Chief.

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By J. P. PAISLEY
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FIGURE 9. Order issued by the Allied Commander-in-Chief General Eisenhower to protect cultural treasures, December 1943. Photo: National Archives and Records Administration, College Park, MD.

FIGURE 10. Rose Valland. Photo: Coll. Camille Garapont / Association La Mémoire de Rose Valland.

Reichsmarschall Hermann Goering arrived for the first of his twenty-two visits to the Jeu de Paume. He made twelve separate trips to Paris to select works of art for his own collection and the Führer's. Rose Valland was at the Jeu de Paume when Goering, along with his henchmen, made the last of his visits. She also witnessed a scene on May 27, 1943 that caused her great dismay: overlooking the Tuileries garden, she saw the Nazis set on fire and burn works of art they considered degenerate, together with hundreds of important frames. The entry she made in her records states: "The paintings . . . have been brought back to the Jeu de Paume. One entire truck, approximately five to six hundred works, burned from 11:00 AM to 3:00 PM in the museum garden under German surveillance. Impossible to save anything."

In my opinion, Rose Valland has never received the credit due her, not just from people around the world, but from her own country, in part a consequence of providing her information to an *American* officer. But she knew that the American army would arrive in Germany before the French army and also knew that Rorimer shared her passion for protecting and returning the patrimony of her country. Until she died in 1981, she was determined to complete the job of the Monuments Men in locating missing works of art and seeing them restituted, long past the point when many in France wished the story would simply go away.

George Stout, whom I mentioned earlier, was not only a hero as a consequence of his foresight in the development of the plan that led to the creation of the Monuments Men, but he was also one of the first people to volunteer to go to Europe. He was forty-eight years old. He had fought in World War I. Although his rank was similar to the other Monuments officers, he was their leader. They trusted him and had confidence in him. He knew how to protect the works of art and package them so that they could be moved. On each of the significant finds, the call went out to get George Stout.

One of the most significant discoveries was in a salt mine in Merkers, Germany where troops of the U.S. Third Army uncovered Germany's gold reserve, foreign currencies worth millions, and art treasures from Berlin's museums. On April 12, 1945, Generals Eisenhower, Patton, Bradley and Eddy took a rickety elevator down hundreds of feet into the Merkers mine to see it for themselves (FIG. 11). What they found was the modern day equivalent in dollar terms of five billion dollars' worth of gold and foreign currency, along with all of the treasures that, today, are on Museum Island in Berlin: the *Bust of Nefertiti,* thousands of paintings and sculptures — Rembrandts, Raphaels, and a Manet — that had been hidden there literally in the closing weeks of the war. It was an extraordinary day for the generals because they left Merkers and went to Ohrdruf, which was the first work camp liberated by American forces. They saw horrific scenes that made a lasting impression. Late that evening, General Patton turned on the radio to the BBC to set his watch which had stopped, only to hear the news of President Roosevelt's death earlier that day.

FIGURE 11. Generals Omar N. Bradley, George S. Patton, and Dwight D. Eisenhower inspect German museum treasures stored in the Merkers mine, April 12, 1945. Photo: National Archives and Records Administration, College Park, MD.

Another enormous discovery was made at the castle of Neuschwanstein in Bavaria, which housed art treasures stolen by the Nazis from private collectors in France, in particular the Rothschilds. Many of the

FIGURE 12. American GIs carry paintings down Neuschwanstein stairs under the supervision of Captain James Rorimer. Photo: National Archives and Records Administration, College Park, MD.

FIGURE 13. George Stout and others packing the central panel of the Ghent Altarpiece. Photo: National Archives and Records Administration, College Park, MD.

23,000 pieces had never been unpacked. Because this Disneyland-like castle is about fifteen stories tall, and has no elevators, some of the paintings were hand-carried out **(FIG. 12)**. James Rorimer was the first Monuments Man to arrive at Neuschwanstein, and he only knew about the repository as a consequence of the vision and bravery of Rose Valland.

The last significant discovery was Altaussee, a long, horizontal mine in the Austrian Alps outside Salzburg. Monuments Man Lincoln Kirstein, who later co-founded the New York City Ballet, and his partner, Robert Posey, an architect, were in an urgent rush to get to Altaussee because of well-founded concerns that the Nazis were attempting to destroy not only the records in the mine concerning the art thefts, but also all of the works of art hidden inside. In other words, if the Nazis could not be victorious, they did not want anything left for the conquering armies.

FIGURE 14. Leonardo da Vinci's *Lady with an Ermine* being returned by a Monuments Man and two American GIs to Poland's Liaison Officer, April 1946. Photo: National Archives and Records Administration, College Park, MD.

The rubble Kirstein and Posey found seemed to confirm their worst fears: that the detonations had already been set off. In fact, when the Monuments Men arrived on the other side, they realized that the Austrian miners had set off small detonations to block the passageways and prevent the Nazis from further gaining access to the mine to detonate the large bombs they had rigged to explode. Once inside, the Monuments Men found a veritable treasure trove of the world's greatest works of art, many of which were destined for Hitler's museum. The enormous mine chambers had been hollowed out and had multi-story storage facilities and racks of paintings all the way to the ceilings. Among the works they came across were Titian's *Danae,* which we mentioned before, taken from the Capodimonte Museum in Naples courtesy of the Hermann Goering tank division, and the Ghent Altarpiece, probably the most important altarpiece in the world. George Stout, who always wore an "N" on his clothes for "Navy" from his WWI service, together with several other Monuments Men, packed the central panel of the altarpiece for removal from the mine **(FIG. 13)**.

At the end of the war, collecting points were set up throughout Germany, the most significant being located in Wiesbaden, Munich, and Offenbach. The collecting process lasted six years, until 1951. When everyone else was coming home from Europe, the Monuments officers stayed to begin the sorting process and return the works of art. By the time they came home, more than five million objects had been

returned to the countries from which the works had been taken. It was the policy of the western Allies to return the cultural objects to the countries, which, in turn, would return them to the owners. No object was more famous than Leonardo's *Lady with an Ermine*, which was one item on a train of 46 cars full of works of art that were taken back to Poland in 1946 **(FIG. 14)**.

When you consider what might have happened in Europe, what kind of world we would be living in today had it not been for the Monuments Men and women — think of the scorn with which we were held around the world in the aftermath of the looting in Iraq — why don't we know who they are? We know who the Tuskegee Airmen are, and the 101st Airborne — "Screaming Eagles," but newspapers throughout this country and other members of the press and media, and, sad to say, auction houses and others who deal with the restitution of works of art, use the phrase "Allied Forces" instead of "Monuments Men". There were millions of Allied Forces, but there were only 350 Monuments Men and women ever. The *Bust of Nefertiti* that sits in the Ägyptisches Museum on Museum Island in Berlin today is there courtesy of the U.S. Army and the Monuments Men **(FIG. 15)**.

In my opinion, there are several reasons we don't know more about them. For one, they never were a unit; they were individuals attached to various army

FIGURE 15. Sgt. Kenneth C. Lindsay at the Wiesbaden Collecting Point with Bust of Nefertiti. Photo: Kenneth C. Lindsay.

"I asked Lane Faison, one of the Monuments Men, 'Why didn't you talk about it more?' And he said, 'We came home, and some of us couldn't, and others of us didn't, but we should have'."

groups. Most never spoke to each other and didn't always know who the others were until the latter part of the war when they started exchanging field reports. Someone realized that a report from one Monuments Man might help another. Moreover, there were so few of them they could not be their own protagonists. I mentioned earlier that there were 350 Monuments Men, but that includes anyone who ever served. There were probably never more than 150 at any given time. This includes volunteers from the liberated countries. So, ultimately, there were approximately 350 men and women from thirteen different nations. Finally, by the time they came home in 1951, people were tired of hearing about the war. There were two other wars going on — the Cold War and the Korean War. I asked Lane Faison, one of the Monuments Men, "Why didn't you talk about it more?" And he told me, "We came home, and some of us couldn't, and others of us didn't, but we should have."

TODAY

I have interviewed many Monuments Men and caught their story in the nick of time. One was Bernie Taper, who is 92 and lives in Berkeley, California. I asked him a question that I've asked all the Monuments Men: is art worth a life? He answered saying that he had had that very discussion with another Monuments Man, Stewart Leonard, one boozy night in Berlin. Taper had argued: human beings had more value; Leonard said: works of art. They continued to drink, and Taper said, "Would you give your life to save Chartres Cathedral?" Leonard answered, "Sure," and added, "Actually, I had that choice to make because there were bombs placed around Chartres, and as a bomb disposal expert, I was the one who had to dispose of them." Taper said, "Leonard won the argument."

This is a "today" story because we are using history to help educate for the future. Having set a gold standard in the past for the protection of cultural treasures, we want to make sure that the bar is never lowered again.

FIGURE 16. President George W. Bush and Robert Edsel with four Monuments Men: Bernard Taper, James Reeds, Harry Ettlinger, and Horace Apgar. Photo: Courtesy, Monuments Men Foundation.

FIGURE 17. Four Monuments Men at a U.S. Senate ceremony, June 6, 2007. Photo: Courtesy, Monuments Men Foundation.

It should apply in places like Iraq. In addition, there are, perhaps, hundreds of thousands of works of art, millions if we include documents, manuscripts and other important cultural items, from WWII that are still missing today. I believe we all have a front row seat to watch, and in some cases, write, this final chapter of World War II history. Works of art, such as *The Portrait of a Gentleman* by Raphael, from the Czartoryski collection, are still missing. The original frame, from which it was removed, hangs forlornly on the museum wall. It is just the tip of the iceberg.

Over the next five to ten years, most of the people who fought in World War II will pass. As they do, there will be new owners for the things that are in their attics, basements, and hanging on their walls. We're sitting here poised for discoveries. But one of the concerns the Monuments Men Foundation has — I know IFAR shares it — is that younger people are unaware of the documents and objects and, finding them, won't see their importance and might throw them away. Therefore, we as an organization are relentlessly focused on visibility. I travel everywhere to make sure that people hear this story so they will ask questions of older people, and, in the process, even if that person does not possess a missing item, they will get to talk to a really cool older person. That's a good thing, too. There is no downside to this effort.

The Monuments Men Foundation has participated in the recovery, discovery, and restitution of various documents, such as two ERR albums we found in the possession of the heirs of an American soldier. It was long thought that there were only thirty-nine of these albums, whose importance was such that they constituted the prosecution's chief evidence about art theft at the Nuremberg trials. We now know that close to one hundred of these albums were created. We donated the two that we found to the National Archives and presented them to the Chief Archivist of the United States, Allen Weinstein.

In 2007, the Monuments Men Foundation received a call from the chairman of the National Endowment for the Humanities, Bruce Cole, saying we were to be the recipient of the 2007 National Humanities Medal — our nation's highest honor for work in the humanities — for rescuing this important story. It was a very proud moment to accompany four Monuments Men to the White House to receive that award **(FIG. 16)**, but an even greater honor for me was the opportunity to work on the passage of resolutions to honor the Monuments Men.

The Monuments Men, as we've said, came not just from the United States, but from thirteen nations. I spent time with Senator Hillary Clinton and personally went to every U.S. Senator's office to speak with the senators or their aides about the importance of the Monuments Men. As a result of that effort and a subsequent effort with members of Congress, we

were offered a day of our choosing, on which resolutions would be submitted to the House and the Senate honoring the Monuments Men. I picked June 6, 2007, the 63rd anniversary of the D-Day landings. A ceremony was held on that day at the Senate in honor of these men and women from all thirteen nations. With only one week's notice, the ambassadors or chargé d'affaires from ten out of the twelve other nations attended. Outside our country, where the word "patrimony" is used everyday, they get it. They knew it was important that they be there. On that day, I had the great honor of introducing one of our Monuments Men, Harry Ettlinger, among the four who were able to attend **(FIG. 17)**. I asked him to speak on behalf of all the Monuments Men. He said, in part:

> Sixty-four years ago during World War II, this country adopted a policy to preserve the cultural entities of Europe. This was contrary to the policy of the leaders of our enemy who were openly bent . . . on destroy[ing] the culture of all they deemed to be inferior . . . A relatively tiny international group of men and women embarked on implementing the policy set by the leaders of our country. Today only twelve Americans, and one British, now referred to as the Monuments Men, are still alive. I, the baby of these soldiers, on behalf of the Monuments Men, alive and those who have gone to the great beyond, accept the great honor the members of the House and the Senate of these United States of America have bestowed upon us in the last two weeks. God bless you. God bless America.

Tonight, I have the honor of introducing to this IFAR gathering, Monuments Man Harry Ettlinger.

I have mentioned the Monuments Men Foundation. My role as an author and as a co-producer of "The Rape of Europa," the movie based on Lynn Nicholas' outstanding book, is part of an overall effort to convey the story of these men and women to the public, because that is where the things that are missing are to be found. All the answers that we need are out there with the public. There are many law firms pursuing restitution claims; there are families pursuing claims. All have their appropriate place. But why don't we just ask people? Why don't we make people aware of something that I believe 99.9 % of the people don't know about? We are blinded by how much *we* know. I don't know of another more effective way to bring visibility to this story than to try to be a great storyteller. We have remarkable material to work with. I make sure that it is available in forms that make it easy to enlist people to participate. While doing that, we are gathering records; filming interviews; trying to find additional living Monuments Men or women; and completing their biographies on our website. Until now we have not done any major fundraising, but we will, so that we can continue our work. We are also, selectively, locating, recovering and restituting works of art and documents, all in an effort to continue the work that, I believe, the Monuments Men, were they still with us, would want to see done.

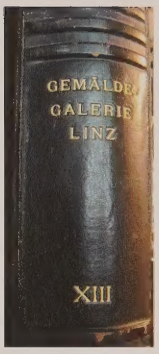

FIGURE 18. *Gemäldegalerie Linz* **Album, Volume XIII. Photo: Courtesy, Monuments Men Foundation.**

Hopefully, we will never again find ourselves in a situation such as we found ourselves in the aftermath of the looting of the National Museum of Iraq. Fortunately, skilled soldiers including Matthew Bogdanos and Corine Wegener helped rectify a horrible situation. That said, when I met Matthew Bogdanos, he had never heard of the Monuments Men. We can't as a nation put people in the field and expect them to do their job if we don't arm them with information. Weapons are great; information is more powerful.

In closing, there is the story of John Pistone, an American veteran, eighty-eight years old, living in Beachwood, Cleveland. A friend of John's contacted us and said, "Mr. Pistone's got this really cool book on his dining room table titled *Gemäldegalerie Linz XIII* **(FIG. 18)**. We don't know what that means because we don't speak German." I flew to meet John right away. He was a distinguished combat veteran who found himself in Berchtesgaden the first week in May 1945. He went into the Berghof, when it was still smoldering, and saw a few of these albums — not just one — lying around. He tried to put two of them in his backpack, but he couldn't carry them — they each weighed about

fourteen pounds. He brought this one home, and as he explained it: "I had no idea what it was, I have no idea what it is today. But I knew that when I told people I was in Hitler's home, nobody would believe me. So I took this book. I would have taken something else, but everybody had already taken the other stuff." This is how it goes. We do not make accusations against American military, although there was certainly theft. But in many cases it was innocent; people took items not necessarily knowing their importance. In fact, this album is one of only thirty-one Gemäldegalerie Linz albums documenting the objects that Hitler personally selected for his museum in Linz. Nineteen others have been found; eleven are still missing. Album Thirteen is devoted to German 19th century painters. Many of the photographs in it have never been seen by people searching for these works of art. I have every confidence that some artworks that have not been restituted will be identified via this album, and their owners found.

The process of restituting Linz Album XIII began in January 2010 with a U.S. State Department ceremony attended by Germany's Ambassador to the United States, Klaus Scharioth, and Deputy Secretary of State Jacob Lew. From there, the Album went to the National World War II Museum in New Orleans, where more than 90,000 people had the chance to see it, along with one of the ERR albums still in our possession. It will accompany me to the Eisenhower Presidential Library, where, on May 7-8, I will be delivering remarks, along with Secretary of Defense Robert Gates, in honor of the 65th anniversary of the end of World War II. [**Editor's Note:** It has since done so.] In my view, it is a poetic conclusion to the peregrinations of these albums that one would end up in the conquering general's presidential library, albeit only for a weekend, before it returns to Berlin for a ceremony at the Deutsches Historisches Museum, where it will join the other nineteen extant albums. The search for the remaining eleven continues.

At the end of the war in Europe, General Eisenhower, The Supreme Allied Commander, for whom I have developed so much respect, gave a speech in London's Guild Hall. His remarks, delivered on July 12, 1945, go to the heart of our discussion. He said:

> The high sense of distinction I feel in receiving this great honor…is inescapably mingled with feelings of profound sadness… Humility must always be the portion of any man who receives acclaim earned in blood of his followers and sacrifices of his friends…. He may have given everything of his heart and mind to meet the spiritual and physical needs of his comrades. He may have written a chapter that will glow forever in the pages of military history. Still, such a man — if he existed — would sadly face the facts that his honors cannot hide in his memories crosses marking the resting places of the dead. They cannot soothe the anguish of the widow or the orphan whose husband or father will not return. The only attitude in which a commander may, with satisfaction, receive the tributes of his friends is in the humble acknowledgment that no matter how unworthy he may be, his position is the symbol of great human forces that have labored arduously and successfully for a righteous cause.

My righteous cause — our righteous cause — and one that I hope you will adopt, is that of these great heroes of civilization, the Monuments Men.

Q & A

Q What organizations are working to return the artwork? A few years ago, The Hermitage in St. Petersburg showed paintings from Germany that hadn't been exhibited since World War II. The exhibition notice effectively said, "We're not returning this stuff."

A There are many organizations, and important roles for each to play. . . . Restitution is extremely complicated; it's very expensive, time consuming, and like all endeavors involving risk, has an uncertain outcome. . . . The policy of the Western Allies was: to the victors do *not* belong the spoils of war; objects found would be returned. In the east, however, the Red Army did remove millions of items from Germany. They returned some in 1956 in an effort to show support for their satellite countries. For example, they returned more than a million items to Dresden — including Raphael's *Sistine Madonna.* But many things are still missing, many no doubt in eastern countries. What you are referring to are the great Impressionist and Post-Impressionist paintings that are at the Hermitage and also at the Pushkin Museum in Moscow; more than 100 paintings split between the two cities. They are in immaculate condition. In 1991, as the Soviets were emerging from Communism, they started to make peace with this. A good friend of mine who recently passed away, Ted Pillsbury, the former director of the Kimbell Art Museum, helped advise Mikhail Piotrovsky, the director of the State Hermitage Museum, about this. He said, "Tell everybody. *You* didn't take the works. You are responsible for taking good care of them. Put the works out there." The exhibition evolved into what it is today, "Hidden Treasures Revealed." A similar situation exists in Moscow. Now there is talk of taking the works out of their separate rooms and interspersing them among the collections.

Let me put it into perspective: 390,000 Americans were killed during World War II; 25 *million* Russians — 17.5 million civilians, 7.5 million soldiers — were killed. Under the 1907 Hague Convention, there was no basis in law for the Soviet Union to keep these art objects as restitution. But I don't think the framers of that Hague Convention, or anybody else alive then, could have contemplated 25 million people from one country being killed. In fact, the Germans went beyond killing. Hitler's order was to erase St. Petersburg from the earth. In Piskariovskoye Cemetery outside St. Petersburg, there are close to a million unmarked graves. About ninety percent of those people died of starvation. The Russians make sure that people know this history. There should be a resolution over the course of time, but an American telling the Germans or Russians what they should do is in my view counterproductive. This is a problem that only they can solve. We can foster a dialogue, but it's a very patriotic issue. As everyone who deals with the word patrimony knows, we don't use that word in this country. But for the ninety-five percent of the people in the world who do, it's an emotionally charged word. This is not all about logic. So a solution should be sought, but it's going to take many decades.

Q You mentioned that Hitler was rejected from art school. He notoriously misunderstood the avant-garde of his own time, labeling it degenerate art, and his last wishes were to create a museum. What, in your opinion, was driving his impulse to steal all this art? Was it just the status or the financial value of the art?

A This is one of life's imponderables. I think he was determined to see himself as a creator. Hitler had plans to rebuild various cities. If destruction is a form of creation, that was probably his greatest outlet. He was continually starting things and not finishing them. He considered himself an outstanding artist, and he was very frustrated that people did not see his talent and ability. The fact that he chose the German painters he did for the *Gemäldegalerie Linz Album XIII* — who, with the exception of Adolf

Menzel and maybe Hans Makart, would not even be displayed by a German museum, except a small regional one — shows that Hitler was determined to redefine beauty. That was its positive form — if you want to consider it that way; the destruction of works he considered degenerate was the negative. Art was used as a weapon of propaganda. That was Lynn Nicholas' great and extraordinary insight, and the story she tells in *The Rape of Europa* is *how* the art was used to that end. Others have also written about it, but her book is the best in describing the pathology of the power of art. Hitler understood that power. It's not just the works of art, but the enormous demonstrations the Nazis organized, the films by Leni Riefenstahl, and other things projecting the Germans as a super race. It is horrible to think of art as a weapon, but there it is.

"... In my opinion, this ends and begins with the President of the United States. . . I don't care what party. The President . . . needs to do no more than restate the words of General Eisenhower: the policy of the United States of America is to protect cultural treasures so much as war allows. End of story."

Q How was the Monuments Men concept promulgated in such a way as to involve representatives from the other Allies? Was it promoted by the American military or was the connection at a civilian level?

A Winston Churchill said that the Americans always get it right after getting it wrong. So you are making a good observation that, in this case, the Americans seem to have gotten it right, involving their allies from the get go. The British were protecting monuments in North Africa ad hoc, with different civil affairs officers in the armies. They had mixed results because many army people didn't want to listen to what the civilian art people were telling them. But the Americans incorporated the specialists into a group and called it the Monuments, Fine Arts and Archives section. Kenneth Clark's great quote about it was, "Fantastic idea, it will never work," but in this instance, it actually did. It helped that the orders came from General Eisenhower.

I will close by saying that there are a lot of people working incredibly hard — including Blue Shield and IFAR — to make sure that what took place in Iraq in 2003 never happens again. Most of them are bottom up efforts — to see that people are better educated, that soldiers are informed, and that the people in the State Department and the Defense Department know about these things. Although I hugely support that, my own effort is from the top down. In my opinion, this ends and begins with the President of the United States, whoever he is. I don't care what party. The President of the United States needs to do no more than restate the words of General Eisenhower: the policy of the United States of America is to protect cultural treasures so much as war allows. End of story. The Defense Department knows what that means; it means the boss just told us that's the policy, get behind it. That did not take place during Iraq.

I was reluctant to make that appeal to President Bush, even after 2007, when we received the National Humanities Medal. I believe that President Bush is a decent person — although I don't agree with many of the decisions that were made. But he was held in such disdain around the world, my concern was that if he enunciated that policy, many people would be against the right words because they were not being expressed by someone they liked. We decided to bide our time until there was a change in leadership. Now we have someone who is better liked, and, I think, better respected. He has a clean slate. This is a good opportunity for us. In my opinion, this is not simple to accomplish, but it is that simple to begin with. That is what needs to take place, and that is why we are doing the things we do on this highly visible stage.

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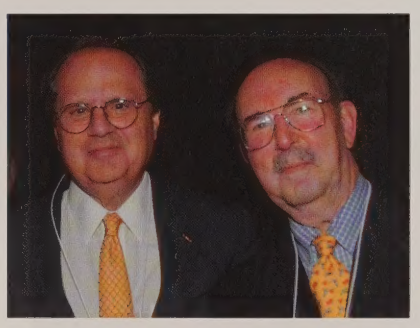
SCENES FROM THE MONUMENTS MEN *EVENING*

Sharon Flescher, IFAR's Executive Director, and Robert M. Edsel.

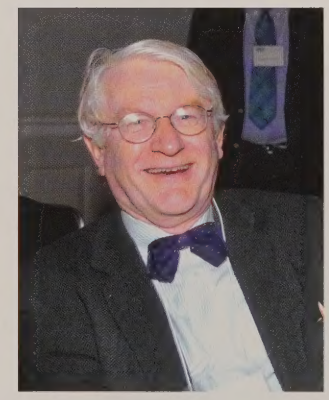
LEFT TO RIGHT: Elaine Rosenberg, Ilda François, and Georges Clark.



Allen M. Keene and John Herzog.

Klaus-Peter Statz and Steven E. Sokol.

Samuel Sachs II, IFAR Board member, and Beth Sachs.



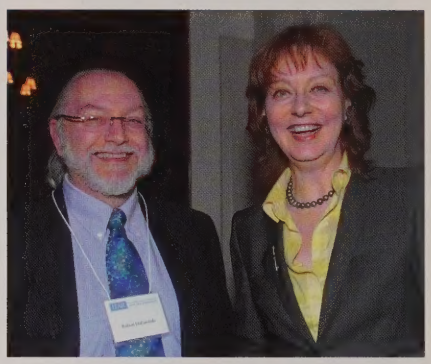
Cormac O'Malley.

Dorit Straus, IFAR Board member, and Tom Kline.

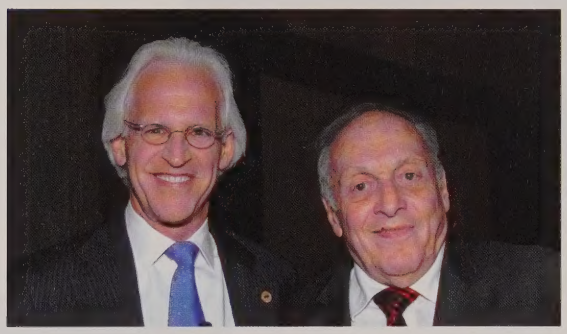
CONTINUED

SCENES FROM THE MONUMENTS MEN *EVENING*

Harry Ettlinger signs a copy of *The Monuments Men* for William D. Cassidy III.



Robert DeCandido and Margaret Holben Ellis, IFAR Art Advisory Council member.



Robert M. Edsel and Monuments Man Harry Ettlinger.

Catherine Brawer and Jimmy Weldon.

Robert M. Edsel signs a copy of his book for Elizabeth Clark.

Marsha E. Malinowski.

Credit for these photos and all other images of speakers and guests at this program are to Sara Cedar Miller.

TWENTY YEARS AND COUNTING: THE ISABELLA STEWART GARDNER MUSEUM THEFT

An *IFAR Evening*, March 15, 2010

SPEAKERS IN SEQUENCE:

REBECCA DREYFUS
Filmmaker; Director of "Stolen"

ANTHONY AMORE
Director of Security
Isabella Stewart Gardner Museum

BRIAN T. KELLY
Assistant U.S. Attorney;
Chief of the Public Corruption &
Special Prosecutions Unit,
U. S. Attorney's Office, Boston

GEOFFREY KELLY
Special Agent, FBI
Boston Division

EDITOR'S NOTE:

March 2010 marked the 20th anniversary of the theft from the Isabella Stewart Gardner Museum in Boston. It remains the biggest property theft in U.S. history and is still unsolved. IFAR organized an IFAR Evening commemorating this sad anniversary, just as we did in 2000 for the 10th anniversary. We hope it is the last such anniversary program. In 2000, as now, we were joined by the FBI Case Agent in Boston, and others, to get an update on the crime and the investigation. At the program this March, held at "10 on the Park" at the Time Warner Center, overlooking New York's Central Park, Anthony Amore, Director of Security at the Gardner Museum, showed numerous crime scene photos, which, unfortunately, we are not able to publish. Film director/ producer, Rebecca Dreyfus, showed several excerpts from "Stolen," her documentary about the theft, which set the stage for the ensuing discussion.

The following is an edited version of the talks and extensive q&a that followed. Before and after, courtesy of First Republic Bank, guests were treated to an elegant reception. IFAR is very grateful to First Republic Bank for its sponsorship of this program.

REBECCA DREYFUS*

"I, Isabella Stewart Gardner, do make and publish this, my last will and testament. I bequeath all my interest in the pictures, statuary, and works of art in trust as a museum for the enjoyment of the public forever.

All the property of the Isabella Stewart Gardner Museum shall be and remain forever in the museum established under this will."

In 2006, I made a documentary, "Stolen," about the theft from the Isabella Stewart Gardner Museum. I am not, however, an expert on the case, as are the other participants on this program. In fact, in all the times that I have shown the film, this is the first time that I have been in a room with people who can actually address the questions the film raised. The following excerpts from the film[1] are intended to set the stage for the discussions:

"In the early morning hours of March 18th, 1990, two white males, posing as Boston police officers, gained entrance to the Isabella Stewart Gardner Museum. They used a ruse: they said that a call had been made to them, that there was some kind of a disturbance. As soon as they got in, they overpowered the guards; tied them up; duct-taped their mouths and eyes; and then put them in the basement.
And then, for about the next hour and a half, they removed 13 pieces of very valuable art from the museum."

Charles S. Prouty, FBI Agent, Boston, 2002, Excerpted from "Stolen"

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* Rebecca Dreyfus, a New York filmmaker, conceived and directed "Stolen," Persistence of Vision Films, Ltd., an Independent Lens production on PBS. The film is available on a DVD via the Website www.stolenthefilm.com. The producer of "Stolen" was Susanna Ludwig; camerawork by Albert Maysles.

1 The script excerpts in the *IFAR Journal* are printed with the permission of Rebecca Dreyfus, and represent only a portion of the material shown at the IFAR program.

I worked on "Stolen" for several years. Harold Smith, a noted fine art insurance adjuster and investigator, was the protagonist and lead investigator in the film, and, with his encouragement, we used the making of the film as an opportunity to uncover new information leading to the recovery of the stolen art. After he passed away in 2005, I gave all of Harold's information to Anthony Amore, the Director of Security at the Gardner Museum, so the leads and information were not lost. Harold believed that the Gardner case would eventually be solved by a tip; that conventional ways of solving crimes — like forensics and DNA — don't work in the case of art theft, especially after so many years. You have to reach out to people who might have heard something along the way. In fact, we received many tips to the tip-line that we set up, some of which were amusing.

There has been much in the press about Myles Connor and William Youngworth III, who, some people believe, have a connection to, or at least information about, the Gardner crime. Some years ago, Youngworth led a *Boston Herald* reporter, Tom Mashberg, who is at this IFAR program, to a Brooklyn warehouse where some of the stolen Gardner Museum art was allegedly hidden. The same William Youngworth contacted us and made colorful claims to Harold Smith. Myles Connor also spoke with Harold. Other speakers at this IFAR program can address the issues of immunity that Youngworth raises in the film, issues which have changed a bit since then:

Harold Smith: We got a call from a Mr. Youngworth. An interview of Youngsworth is really important to this case, in view of all the publicity that he caused in the Boston area.

Maybe he did put on a whole charade for this newspaper reporter. But somehow I have a gut feeling, for him to go that far, that he had to have some information. He put on too good a show for it to have no basis.

William Youngworth: The Gardner could have their stuff back tomorrow, okay, if something could be worked out on this other level.

Harold Smith: I've never had a case where, if somebody had knowledge... that they couldn't work it out in 12 years . . . particularly when there's a 5-million-dollar reward involved.

William Youngworth: What has really complicated this thing is that the FBI take this public posture that, listen; we just want the stuff back, and we don't really care how it comes back. And that's not true.

I mean, I have sat there, behind closed doors. And they only have one agenda. The only thing they want is names. I mean, they want an informant, before they want the art back.

Harold Smith: What do you think has to be done in order to recover these paintings?

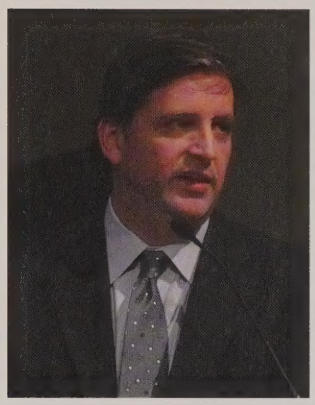
William Youngworth: My suggestion is, basically, a blanket amnesty agreement, saying that nobody will be charged with anything, as long as the stuff comes back. . . .

Then the Gardner escrows the funds. To say that they, in fact, have them, and they are available. And the money is placed in an escrow account...

Harold Smith and William Youngworth III
Excerpted from "Stolen"

We also had a tip from another "interesting" man named the "Turbocharger," which took Harold to London and got us into another well-known hypothesis about the case: organized crime, and, by extension, the possible role in the theft of the IRA. Again, the other speakers can bring you up-to-date on those theories — and the events surrounding the theft itself.

ANTHONY AMORE*



Let me start with the theft itself. I am not only the Gardner Museum's security director, I am also its chief investigator regarding the theft. In investigating this crime, one of the first things you learn is that the two guards who were on duty that evening do not fully agree as to what the thieves looked like. They are not sure whether one or both had a false mustache, although they do agree that the person who appeared to be the older of the two wore wire-rimmed glasses. As a result, the composite sketch of the two thieves has four drawings **(FIG. 1)**.

The sketches do not show two very descript individuals; one person has a narrow face, the other a rounder face. This is not a lot to go on. The guards, both of whom were recent college graduates, said at the time that the thieves were probably in their late twenties, early thirties. Now, one says, "When I was in my early twenties, an older person was thirty, but it is very possible that the thieves were older than that; they might have been *(gasp)* forty."

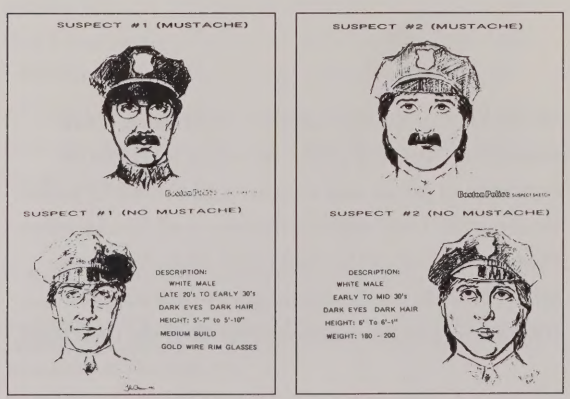


FIGURE 1. Sketch of 2 thieves / 4 images.

After the thieves used their ruse — impersonating police officers — to get into the museum at 1:24 in the morning of March 18, 1990, they talked with the guards for a few minutes. Then they subdued them, without force. No weapons were brandished; they were not rough. They handcuffed the guards, duct-taped them, and brought one of the guards down to the basement. They seated him on the floor and handcuffed his handcuffs to a pipe attached to the wash basin, where he spent the next seven or eight hours, while the thieves had their way with the museum. The thieves first made their way upstairs and started ransacking the galleries. But that was after they were in the museum for twenty-four minutes. This is significant in itself. Twenty-four minutes before anything is stolen is a heck of a long time. Most museum art thefts — in total — take place in less time.

My plan for this program — an example of the sacred and the profane — is to show the pieces that were stolen, followed by what was found the next day.[1] In all, thirteen objects were taken. One was Rembrandt's only known seascape, *Christ in the Storm on the Sea of Galilee* **(FIG. 2)**. It shows Christ sitting serenely as the storm is taking over the ship, while his disciples, starting to panic, appeal to him for help.

Also stolen was Govaert Flinck's *Landscape with an Obelisk* **(FIG. 3)**, which was also in the Dutch Room, facing *Storm on the Sea of Galilee*. It is an oil painting on oak. The morning after the theft, the authorities found the frames of both the Flinck and the Rembrandt *Storm* on the floor of the Dutch Room. Nearby was the table that held the Ku — the beaker — that was also stolen, which I will return to in a bit. Interestingly, a door in the Dutch Room, which is a

* Anthony Amore has been the Director of Security for the Isabella Stewart Gardner Museum since 2005.

[1] Editor's Note: Numerous crime scene photographs were shown at the program, but we are not permitted to reproduce them in the *Journal*.

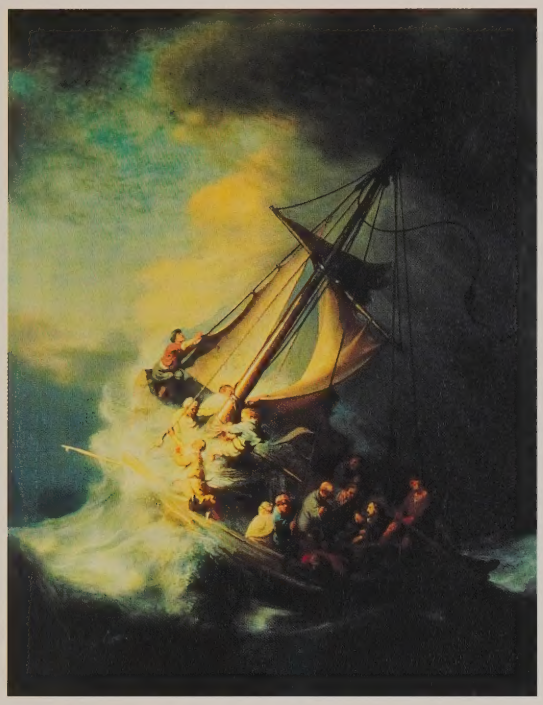


FIGURE 2. REMBRANDT (Dutch, 1606-69). *The Storm on the Sea of Galilee,* 1633. Oil on canvas. 161.7 x 129.8 cm. Inscribed on the rudder: Rembrant [sic] f:/1633.

FIGURE 3. GOVAERT FLINCK (Dutch 1615-60). *Landscape with an Obelisk,* 1638. Oil on oak panel. 54.5 x 71.0 cm. Inscribed faintly in l/r: R. 16.8. Originally attributed to Rembrandt.

FIGURE 4. REMBRANDT. *Portrait of a Lady and Gentleman in Black,* 1633. Oil on canvas. 131.6 x 109.0 cm. Inscribed at the foot: Rembrandt. Ft: 1633.

FIGURE 5. JOHANNES VERMEER (Dutch, 1632-75). *The Concert,* 1658-1660. Oil on canvas. 72.5 x 64.7 cm.

FIGURE 6. Chinese bronze beaker or *Ku.* (Shang Dynasty, 1200-1100 B.C.) Ht: 26.7 cm. Diam: 15.5 cm. Wt: 2 lbs., 7 oz.

hidden passageway that used to lead into a paintings conservation lab on the second floor of the museum, was found open the day after the theft. Chairs were pushed against each other near the door. A museum would never do that. The supposition is that the door was opened from the inside, suggesting that inside information was provided to the thieves.

The position of the frames on the floor has led us to believe that *Storm on the Sea of Galilee* was the first painting removed from the wall. It was cut from its frame, and from the redwood stretcher that held the canvas. The Flinck landscape was oil on oak, so no cutting was involved. The frame of the Rembrandt *Storm* was handled exceedingly roughly; it was dropped to the floor and little chips — flecks — broke off. Note: There were no large *paint* chips on the floor, just chips from the frame. Some of the canvas from the *Storm on the Sea of Galilee* was also left behind on the stretcher. I have spent a lot of time examining the stretcher of the Rembrandt, which has a deep cut that was made by, if not a box cutter, another very sharp cutting instrument. It is a clean cut, which is significant, I would think. People in the media talked about going to the Gardner Museum afterward, and seeing the (empty) frames on the wall with jagged edges hanging off from them. Obviously, they have not been to the museum. The stretcher is not hanging on the wall, the frame is.

"Only two of the stolen paintings were cut from their frames, and both were Rembrandts."

After the theft, conservators started to do their work, with the frames still on the floor. It looked like a CSI scene: klieg lights, a tape around the rooms and the remaining objects, just like a murder investigation. The conservators took pictures for posterity's sake.

Only two of the stolen paintings were cut from their frames, and both were Rembrandts. The second was *Portrait of a Lady and Gentleman in Black* **(FIG. 4)**, which hung to the left of *Storm on the Sea of Galilee,* on the same south wall in the Dutch Room. Interestingly, when the thieves went from *Storm on the Sea of Galilee* to the *Portrait of a Lady and Gentleman in Black* they bypassed a Rubens painting without touching it. Photographs of the crime scene show that the hooks that held the large frame of the Rembrandt *Portrait* in place were pulled slightly from the wall. Most likely, the thieves yanked on the frame to pull it down, and the hooks gave a bit, but not enough for the frame to come down, so they must have lifted it off the wall and put it on the floor. From the way the frames were laid on the floor, right below where they were hanging, it is a good guess that the two men worked together to lift them from the wall. The frames are not exceedingly heavy, but they were relatively gingerly handled, except, of course, that the pictures were cut from them. As with *Storm on the Sea of Galilee,* remnants of the canvas are visible on the stretcher that held *Portrait of a Lady and Gentleman in Black.*

"The bottom line is, when you are looking at a twenty-year-old crime, every little thing that you can uncover will hopefully unlock important information."

Both Rembrandt paintings were relined. When paintings are relined, a good amount of glue is used. That tells us that the chances that they were rolled up are slim. An old relined painting that has been cared for over the years, with varnish applied to it, takes on the consistency of corrugated cardboard. My guess would be that the thieves' first attempt to roll the paintings would have quickly told them to stop, and would have resulted in more paint chips being left on the floor. But anytime I say that in public, I know that the next day someone may come to the door with two big poster tubes containing our paintings rolled up.

Crime scene photographs also show that the *Portrait of a Lady and Gentleman in Black* was damaged and cut on the lower corner, as there is a neat cut from a blade on the wood of the stretcher and a remnant of the Rembrandt painting. The remnant was not wrapped around the stretcher, since the painting was relined. In this area, the blade made a round cut instead of a perfectly straight cut; it seems that the thieves just cut around the corner. I have looked at the crime scene pictures a lot; you start to accept them as evidence, but then you stop and think: this is a Rembrandt painting that's been cut, and this remnant is all that we have left.

FIGURE 7. EDOUARD MANET (French, 1832-83). *Chez Tortoni,* 1878-1880. Oil on canvas. 26.0 x 34.0 cm.

FIGURE 8. 1926 photo showing *Chez Tortoni* on the right (south) wall of the Blue Room, beneath Manet's *Portrait of Madame Manet.*

The morning after the theft, they found the dustcover from the back of Vermeer's *Concert* **(FIG. 5)** and the painting's frame with some broken glass still in it on the floor. This suggests that the painting was taken off the easel, where it used to be displayed on the right side of the Dutch Room, and brought midway into the room, where it was removed from the frame on its stretcher. Then the frame was allowed to fall. It also suggests that they did not break the glass to get to the painting, which, if they had, would be horrible.

A Shang dynasty beaker — a Ku — about 3,000 years old **(FIG. 6)**, was taken from the center of a table to the right of the *Storm on the Sea of Galilee.* When I started investigating this case, it seemed as if the beaker was taken off the table as an afterthought — something that caught their eye. But further investigation seems to indicate that the thieves really wanted this Ku. We have since found that it was connected to a base securing it to the table to prevent it from being knocked over. Crime scene photos show the table covering pulled off, probably because they had to struggle with it. I think they thought they could just take the beaker but found that it wasn't that easy. Eventually, they cut the cloth to get the Ku out. The bottom line is, when you are looking at a twenty-year-old crime, every little thing that you can uncover will hopefully unlock important information. So it is important to see that they tried hard to get this Ku, as opposed to just taking it as an afterthought.

Manet's *Chez Tortoni* **(FIG. 7)** was in the Blue Room on the first floor of the Gardner. It was the only gallery not on the second floor that lost a painting. In order to maintain Mrs. Gardner's will, which dictated that everything remain exactly as she left it, the museum has a rich collection of photographs from 1926. They are the best indicators of exactly where she left all the items. A 1926 photograph **(FIG. 8)** shows Manet's *Portrait of Madame Manet* on the south wall of the Blue Room, and beneath it, *Chez Tortoni.* The frame that held *Chez Tortoni* was found the day after the theft on the security director's chair on the first floor of the museum, while in the Blue Room the day after the theft photographs show that the wall covering where *Chez Tortoni* hung looked a little rough (the museum has since replaced the wall covering), and the *Portrait of Madame Manet* was down for cleaning.

> "The theft occurred over a period of eighty-one minutes, an inordinate amount of time for any theft. To think that the thieves were so comfortable that the police were not going to come, that . . ."

Also stolen was a Rembrandt *Self-Portrait* etching, also referred to as *Man with Three Mustaches* **(FIG. 9)**. It is tiny, only about two inches by one and three-quarter inches, and hung in a small frame below the Rembrandt self-portrait, *Rembrandt at Twenty-Three,* which was not stolen that night. Interestingly, this etching, as well, was removed from its frame, which was ornate and smaller than 8" x 10".

FIGURE 9. REMBRANDT, *Self-Portrait,* ca. 1634. Etching. 4.4 x 5.1 cm. Bartsch no. 2. Rovinski no. 2. Hind no. 57.

It gives you an idea as to how relaxed the thieves were inside the building. The theft occurred over a period of eighty-one minutes, an inordinate amount of time for any theft. To think that the thieves were so comfortable that the police were not going to come that they removed this small frame from the cabinet it was affixed to, took the backing off, plus a second backing, and the matte, then took the etching, and left all the rest behind on a table, rather than just carrying the entire little piece — the size of a notebook. This is a significant point.

Rembrandt's *Self-Portrait at the Age of Twenty-Three*, which hung above the etching, is an important self-portrait — when the artist first establishes himself as one of the great Dutch masters. He shows himself with a gold chain that would have been given to him by royalty, to indicate that he was on the level of Rubens or the other masters. He was bold enough to put it on himself in this painting. But, as legend has it, after people saw the painting they said, "Here's your gold chain, you deserve one." We see his skills in the depiction of his scarf, his cap and his face. The thieves removed this painting from the wall and stood it on the floor facing the cabinet, but they never stole it.

That is one of the great mysteries to the theft. Some people have speculated that maybe it was too heavy — the painting is oil on oak — but it is not much bigger than the Flinck, which is also oil on oak, and this is clearly a Rembrandt. The Flinck was, in fact, formerly attributed to Rembrandt, until the mid-seventies, when the Rembrandt Research Project determined that it was by Flinck, one of his students. But anyone who went to high school for a month would know that this *Self-Portrait* is a Rembrandt. The thieves took it off the wall, apparently intending to steal it, but for whatever reason they did not. Anne Hawley, the director of the Gardner Museum, told me that when she came to the museum the day after the theft, the Dutch Room was roped off and this *Self-Portrait* was on the floor along the wall. She wasn't allowed in either until they were done with the crime scene investigation. When she looked around the corner, she saw the empty wall and thought all four Rembrandts were gone. So perhaps the thieves thought, in their haste — although there was not much haste displayed — but, for whatever reason, thought that this was a work that had been cut out of a frame and forgot it. I can't imagine why they would forget it, but they did, thankfully — so we still have this *Self-Portrait.*

Five drawings by Degas were taken: *Three Mounted Jockeys* **(FIG. 10)**; two versions of *Program for an Artistic Soirée* **(FIGS. 11A** and **11B)**; *La Sortie du Pelage* **(FIG. 12)**, actually a watercolor and gouache, showing a seated jockey leaving to go off to the races; and *Cortège aux Environs de Florence* **(FIG. 13)**. The five Degas pieces, exhibited behind glass, were in three frames that hung on one of the door panels in the Short Gallery on the second floor.

There are four paneled doors in the Short Gallery, which contain dozens of drawings by artists such as Raphael, Michelangelo, Matisse, Zorn, and Degas. The only drawings that were taken were by Degas. The museum had seven pieces by Degas, and five were taken. We never speak about works in terms of monetary value, but the five taken were the least valuable of the seven works by Degas. Left behind on the first floor, in the Macknight Room, was a drawing of a ballet dancer, not unlike some of the drawings that were stolen, but far more valuable in terms of dollars. On the other side of the Blue Room, in the Yellow Room, is Degas' painting *Madame Gaujelin,* which is infinitely more valuable in terms of dollars than the five stolen drawings. Crime scene photos from the Short Gallery show that one of the frames was smashed to smithereens, and broken glass was scattered.

Also taken from the Short Gallery was a bronze Napoleonic finial from Napoleon's first regiment **(FIG. 14)**. It rested upon a flag also from Napoleon's first regiment.

FIGURE 10. HILAIRE GERMAIN EDGAR DEGAS (French, 1834-1917). *Three Mounted Jockeys.* Black ink, wash and oil pigments on medium brown paper. 30.5 x 24.0 cm.

11A

11B

FIGURE 11. EDGAR DEGAS drawing — *Program for an Artistic Soirée,* 1884 — two versions:
a) Charcoal on white paper. 24.1 x 30.9 cm.
Originally exhibited in the same frame with the less finished version — 11B —below.
b) Charcoal on buff paper. 23.4 x 30.0 cm.

FIGURE 12. EDGAR DEGAS. *La Sortie du Pelage.* Pencil and gouache on paper.10.0 x 16.0 cm. Originally exhibited in a frame with *Cortège aux Environs de Florence.*

FIGURE 13. EDGAR DEGAS drawing, *Cortège aux Environs de Florence.* Pencil and gouache on paper. 16.0 x 20.0 cm. Originally exhibited in a frame with *La Sortie du Pelage.*

FIGURE 14. *Finial* (French, 1813-14). Gilt metal (bronze). Approx. ht. 10".

One interesting side story: The morning after the theft, some newspapers indicated that twelve pieces were stolen. That is because police and museum personnel only counted twelve stolen pieces. When they started to clean up the broken glass from the Degas frame, however, they noticed a metal bucket full of sand, which was for fire suppression. In that bucket were screws, which matched the frame of the Napoleonic flag. In monetary terms, these are not very valuable items. They are valuable now because they are part of the Gardner lore and part of Mrs. Gardner's collection, but my own opinion is that this flag was not important to the thieves. Many people have put forth this theory about Napoleon, or some type of connection to the IRA, what have you, but I can tell you, without any question, they had the means to steal it. They started taking the screws out; they had a screwdriver. It is not a difficult thing to do. Or they could have smashed the glass, as they did with the Degas drawing; or pulled the case off the wall. There were several ways to take it in 1990. Now that I am the security director, you could never get it, I promise you. Never. So the flag was left behind; the finial was gone. Theories abound about the finial: everything from Sherlock Holmes and his group of Baker Street Irregulars, who need a Napoleonic item at their meetings, to the suggestion that they mistook the finial for gold that could be melted down, or that they wanted a trophy piece that is now on someone's mantel.

I have tried to walk you through the items that were stolen, and the crime scene the next day, in the hope of dispelling myths about how the theft was committed. I can see why someone who doesn't spend twenty-four hours a day on this, as I and my colleagues do, would think some of those myths are valid.

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BRIAN T. KELLY*

As the Chief of the Public Corruption & Special Prosecutions Unit of the U.S. Attorney's Office in Boston, I am the prosecutor assigned to the Gardner Museum case. My role at this program is to provide an overview of the legal basis of this investigation.

There are several statutes that still apply to this case and could be used to prosecute individuals involved. The most important one is the Theft of Major Artwork statute (18 U.S.C. § 668), which was first introduced in Congress in 1991. As with most things in Congress, it took a while and wasn't actually passed until September 1994. The sponsors were Senator Edward (Ted) Kennedy, from Massachusetts, and Senator Orrin Hatch, who, despite their different politics, were actually close friends. It was Kennedy's pet project, which he pushed, in large part, because of the theft at the Gardner Museum.

"... [Immunity] is a way for us to say, 'Put up or shut up.' With Myles Connor, it didn't work out. Ultimately, he had nothing to give us."

As with most statutes, there are a couple of ways that we, as prosecutors, could prosecute someone for violating this statute. The first part of the statute makes it a crime — a felony punishable up to ten years in prison — to steal certain types of artwork from museums. That part of the statute cannot be used in this case. First of all, the statute wasn't in effect at the time of the breaking and entering. However, the second part of the statute could be used today. That part makes it a crime — again, a ten-year felony — to conceal or receive artwork that you know to be stolen. So, for instance, if someone currently had one of the Gardner Museum pieces of art and knew that it was, in fact, stolen from the museum, that person could be prosecuted under the statute. That is the main legal basis for our continuing federal investigation. Of course, that gives rise to people worrying about our prosecuting them if they help us, so this notion of immunity does come up.

Let me briefly explain immunity. As in any investigation, whether it is this one, an organized crime investigation, or a bank robbery, people have a right to refuse to answer our questions. Annoying as that is, it is their Fifth Amendment privilege against self-incrimination. We cannot force people to help us, especially criminals — they are not inclined to help us or the FBI. So, to get their testimony before, for instance, a grand jury for use later at trial, one of our tools is an immunity order from the district court judge, or a letter of immunity from our office. Once a person has immunity, the Fifth Amendment privilege is supplanted. The person can't incriminate himself anymore because he or she has immunity. Now they *have* to talk in the grand jury. Of course, sometimes, especially in organized crime cases, people will continue to refuse to talk because they are afraid of the target whom we are investigating. If they continue to refuse, despite the immunity orders, they are held in contempt and go to jail. They can stay in jail for up to eighteen months, which is the life of a grand jury. If they still refuse to testify, we can indict them on criminal contempt.

Thus, there are many tools at our disposal to try to convince people to provide testimony. This investigation is no different. One of the individuals featured in the movie "Stolen" was Myles Connor. For many years he had been suggesting that he had information about the stolen items. As noted in the movie, he was in jail at the time of the Gardner Museum theft; however,

* Brian T. Kelly, Esq., Assistant U.S. Attorney, is Chief of the Public Corruption & Special Prosecutions Unit, U. S. Attorney's Office, Boston. Prior to that, he was in the Organized Crime Unit of the U.S. Attorney's Office in Boston.

he kept suggesting that his colleagues knew where the items were. This past summer (2009), as was reported in the newspapers, Connor engaged a lawyer to ask us about immunity. As Michael Sullivan, the U.S. Attorney, articulated in the movie "Stolen" before he left our office, we will entertain the idea of immunity in certain circumstances in order to get the artwork back. It is a way for us to say, "Put up or shut up." With Myles Connor, it didn't work out. Ultimately, he had nothing to give us.

"For a variety of reasons, I am convinced that [Whitey Bulger's] crew had nothing to do with the Gardner Museum theft . . ."

Before I became the head of the Public Corruption Unit, I was in the Organized Crime Unit of the U.S. Attorney's office for many years. One of the cases I worked on was the prosecution of James J. "Whitey" Bulger, who was also mentioned in the film "Stolen." He was essentially the leader of the Irish Mafia in Boston. Boston is divided into neighborhoods. The Irish are in South Boston, and the Italians are in the North End. In Boston, the Irish Mafia was equally as powerful and perhaps even more vicious than the Italian "La Cosa Nostra." Bulger was the leader, and he was involved in numerous murders and other crimes. He was indicted, along with many of his colleagues, in 1995. I was one of the prosecutors on that case. For a variety of reasons, I am convinced that his crew had nothing to do with the Gardner Museum theft, nor have they been able to provide any information about it. He is still a fugitive, and one of his closest partners in crime — Stephen Flemmi — has been sentenced to prison for life. Another close associate became a government witness after spending seven years in jail. As a result, we have had a variety of ways to probe whether or not the Irish crew in Boston had anything to do with the theft, and I, for one, am fairly convinced they did not. Flemmi would have used the information as a bargaining chip to get out of prison by now, or another one of the crew would have used it to collect some of the money. Unfortunately, they have been no help.

I hope this brief overview has helped explain some of the legal techniques we can use to assist the FBI and the Gardner Museum in trying to recover the stolen works.

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GEOFFREY KELLY*

I am a Special Agent with the Federal Bureau of Investigation, assigned to the Boston division. I have been the Case Agent on the Isabella Stewart Gardner Museum theft for eight years. When I was assigned this case, which was already twelve years in, I spent months pouring over documents and Bureau files, just to get up to speed. Every time I opened a folder, or a file, it raised more questions. I will now answer the first question that comes to everyone's mind, namely: Why haven't you guys found it yet? And I would put it back on you. Look at this case! Look at the sketches of the two thieves. One guard said *this* guy had a mustache; the other guard said *that* guy had a mustache. The sketches are non-descript; it could be a lot of people. Twenty years have gone by. The FBI has conducted thousands of interviews and traveled around the world,

* Geoffrey Kelly is a Special Agent, FBI, Boston Division. He has been the Case Agent for the Gardner Museum theft since 2002.

literally, chasing down leads. For all the theories out there, probably an infinite number, there are the same number of suspects. Immunity has been offered — it is on the table — and the Museum increased the reward to $5 million some time ago. One would think that would inspire somebody to come forward and return the paintings. It hasn't.

"I will now answer the first question that comes to everyone's mind, namely: Why haven't you guys found it yet?"

So, on the one hand, as lead investigator on this case — and I'm very fortunate to work closely with Anthony Amore and Brian Kelly — I could get discouraged, but I don't. Despite the number of leads that fizzle out, there are always more. Twenty years in, one might think that this is a cold case, but it is not. We continue to get leads on a regular basis. Some of them are more credible than others, but I would rather have a situation where we continually have somewhere to go, somewhere to look, somebody to talk to, some house to search, rather than have nothing. This is one reason why I am a big proponent — and the FBI in Boston is a big proponent — of talking to the public and explaining what happened, and what would be involved if somebody wants to give back these paintings. This generates good publicity, and we get good leads, and bad. Anthony Amore seems to get his fair share of them as well. I have met with psychics and people with divining rods who say they will lead us to the painting. There is a litany of leads. I won't characterize these people as nuts, because I would rather have people talking to me, than not, but some of them you can dismiss; some are very interesting. The troubling ones are those that you can't dismiss. But where do you go with it?

"Twenty years in, one might think that this is a cold case, but it is not."

The theft occurred in 1990; the statute of limitations expired in 1995; and we have limited means at our disposal to compel somebody to talk to us and tell us something. You may get a good lead and track it down, but eventually it comes to a point where somebody is going to talk to you or not talk to you. The fact is that there are so many viable theories and suspects that have come out of this investigation that it is really difficult to pin it down. I have been working the case for eight years; it's been five years for Anthony Amore. We — and certainly Brian Kelly as well — have formed our own opinions. But opinions are just that. It is important as an investigator not to become focused on one particular theory or suspect at the expense of ignoring other potentially strong leads. As a representative of the FBI, I have to protect people's privacy. Everyone wants to know what my theory is; who do I think did it. I can't say, "Between you and me, this guy did it." In the documentary "Stolen," Billy Youngworth said that if he had immunity, he would get the Gardner paintings back within thirty minutes. Well, immunity is in place, and there is a $5 million reward in place, but the paintings have yet to be recovered. We can all draw our own conclusions about whether or not somebody really does have the paintings.

Where do we go from here? We continue to plug away. I have my personal opinions, as I said. I think it was probably a local job. People like to say it was some billionaire with a private art gallery somewhere on the other side of the world, and he has the works there for his own enjoyment. I would love it if that were the case, because, then, someday, the paintings will come back in as good condition as they were the night they were taken. I doubt that. History shows that that doesn't happen all that often, and the manner in which the paintings were taken — the Rembrandts actually being sliced out of the frames — is not indicative of somebody who commissioned the theft to get works for their own personal enjoyment.

You have to ask — March 17, 1990 — where was the Gardner Museum at the time? While it is a beautiful museum, it was very little known; kind of esoteric, out there in the Fenway, which is a swamp area, down the road from the Museum of Fine Arts. Now, twenty years later, it is a famous museum, and for art lovers and New Englanders, it has become infamous. I think it is quite possible that somebody went in there thinking they'd get a quick score — a very small museum that not too many people have heard about; light secu-

rity; go in there; take some paintings; maybe give them back through insurance — but there was no insurance; or maybe they would just ransom them back to the museum; or try to use the works to get somebody out of jail. These are all theories. They wake up the next morning and realize they have just committed the art crime of the century. So what do they do with the works? Believe me, I have to temper being optimistic with being realistic. It is a possibility that somebody said, "These things are too hot," and then destroyed them. But I don't think I'm being unrealistic when I say that if that had occurred, we would have heard something after twenty years. We have never received any information, even rumors, that somebody has destroyed these paintings, so I believe they are out there, and I believe we will get them back.

I was interviewed two weeks ago about disappointing leads. I talked about a lead from a woman in Reno, Nevada telling us that the *Concert* is being "offered for sale in an antiques mart." She sent photos. I looked at the photos, and it was the *Concert*, and it looked like an oil painting and was being offered for sale. That in and of itself isn't beyond the realm of possibility. If the paintings have been hidden somewhere, and that person dies, it is possible that the estate would put them up for sale if they didn't know what they had. So, needless to say, agents from our Reno office were waiting there when the antiques mart opened. A few hours later, they took custody of the work; seized it, and emailed digital photos, front and back, to me. I could easily see that it wasn't the original painting; just a good copy. Nonetheless, I forwarded the images to the Museum to confirm it. That's the type of thing that you come across in this kind of investigation; some high points and then a crushing letdown. You pick yourself up and start again and go to the next lead. That is the nature of this investigation. So we continue to work very hard, and I think it is important that we have this group.

"It is a possibility that somebody said, 'These things are too hot,' and then destroyed them. But I don't think I'm being unrealistic when I say that if that had occurred, we would have heard something after twenty years."

Although there has always been a great dialogue with the Gardner Museum, the FBI has now done something unique with this case, which is work closely with both the U.S. Attorney's Office and the Gardner Museum — the victim in this case. It is important to get the word out to whoever has these paintings that immunity is being offered, that there is a five- million-dollar reward, and that confidentiality is also being offered for somebody who has the paintings. We hope that triple threat will resonate — and that somebody will say something.

"It is important to get the word out to whoever has these paintings that immunity is being offered, that there is a five-million-dollar reward, and that confidentiality is also being offered . . ."

The FBI is planning some unique publicity: a national billboard campaign. We are trying to think outside the box, to show the public that this is a unique case. It is an important case, not only for the FBI and the people of Boston, but for the art community in general. We want to show how serious we are, and what a win-win situation it is for anybody who has these paintings to return them. With the posture of the U.S. Attorney's Office having changed over the last seven or eight years, it is a good time to get them back. We don't care whether someone goes to the Museum with information, or the FBI, or the U.S. Attorney's office, or a local police station or the media. We are just concerned that the paintings get back to where they belong.

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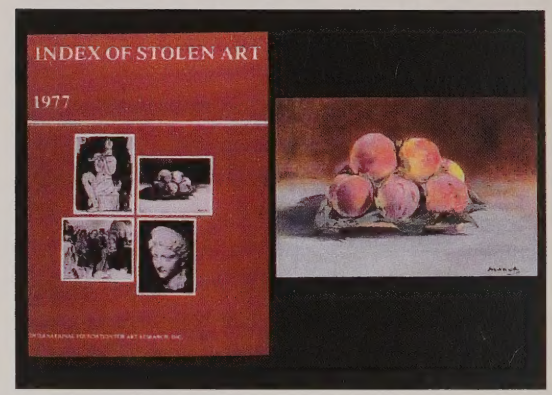
Q&A

SHARON FLESCHER, Executive Director, IFAR **(SF):** Before we begin questions, let me say that I remain optimistic, as I know Anthony, Brian, and Geoff are, about recovering these items. Twenty years is not unusually long for stolen art to be missing. In 1977, for example, IFAR published an image of Edouard Manet's *Peaches* on the cover of our first publication of stolen art, the *Index of Stolen Art.* It had been stolen from a private collection earlier that year. It was not recovered until 20 years later when it was offered to a dealer in Florida. In 1978, a work then known as Rembrandt's "Rabbi" was stolen from the de Young Museum in San Francisco. It was found in New York twenty-one years later, in 1999, but by then it was no longer considered a Rembrandt. Similarly, a Cézanne still life stolen from a private residence in Massachusetts in 1978 turned up twenty-one years later in Europe when a search was done via the ALR in IFAR's Stolen Art Database. These are just a few examples to show that although twenty years is long, much too long, for works to be missing and off view, it is not too long to give up hope. With that, let us begin the questions.

Q Not one of the speakers commented about the recent media announcement that advances in DNA are going to be applied to this case. Could you?

A GEOFFREY KELLY (GK): I spoke with Steve Kurkjian from the *Boston Globe* and other Boston media about DNA evidence. As investigators, we routinely look at a case all over again. There *was* DNA. Items of evidence have been taken over the last twenty years, and potentially these items could have DNA evidence good enough to be submitted into a national DNA database. This theft happened twenty years ago. With DNA advancements, it's just part of the natural process of an investigation to resubmit evidence to the laboratory to see if DNA can be recovered off these items. That's part of a routine investigation. There are no earth-shattering announcements about it. It is not like fingerprints, which have been an accepted form of identification for over a hundred years. DNA is a relatively new technology, and even if we do obtain a great sample, there has to be DNA to compare it to. If, for example, the thief was an individual who died before his DNA was obtained and recorded, we're never going to be able to get a match. That's a caveat.



Cover of IFAR's first publication of stolen art, showing Edouard Manet's *Peaches,* stolen 1977; found 1997.

ANTHONY AMORE (AA): From the Museum's perspective, an institution that has suffered such a loss, it is reassuring to see that twenty years later, the FBI is still trying everything it can. They are not just sitting there waiting for someone to call. They are looking. I speak to Geoff — poor Geoff — on a daily basis, and email him thrice daily. . . . They are moving forward and looking for a way to speed this along to get us our paintings back.

Q Mr. Amore, you alluded to the possibility that this was an inside job given that the door to the conservation studio in the museum was open. Is that one of the theories that you are still looking at, an inside job?

A AA: There's a two-part answer to that. First, yes. According to FBI statistics, 87% of museum thefts include an insider to some extent. But I would rephrase that — it would point to inside information, which is different than an inside job. Someone working at the Gardner Museum might have innocently

told somebody that there was a hidden door there. It doesn't necessarily mean that someone gave that information for a theft to be committed. It could have just been inside information not otherwise known to the public that made its way to ne'er-do-wells.

Q First, I want to thank Dr. Flescher and the panelists for a wonderful, comprehensive, and mystifying program. My question is the following: Can we deduce anything or draw any conclusions from the choice of paintings that were taken by the thieves?

A GK: It was definitely an eclectic collection that was taken, which is par for the course for the very eclectic collection that is the Gardner Museum. When a crime occurs, you try to figure out every little thing: Why didn't they go here? Why did they turn there? Why did they take these paintings? It is a wonderful question. We don't know why. Anthony can give you more insight into some of the incredible pieces that were *not* taken. Some of the ones that *were* taken make sense. Certainly the Vermeer; probably the most expensive stolen painting in the world right now. The Rembrandts. Why the Degas sketches? I don't know. And, as Anthony said, why not the other Rembrandt that was taken off the wall? These are the types of questions that as investigators we pore over. We try to see whether there is some meaning to it. And there really isn't. Maybe it's just that that's what they liked. We are trying to put everything into a dollar figure, and maybe it's just a human element. Maybe they went into the museum; had it in their mind to take some paintings from the Dutch Room. They were comfortable enough to walk through the museum and see what else was in there, and maybe they just took some paintings and some sketches that they liked. The finial off the flag pole, the Ku beaker, is it something that they'd want to use to show that they really had works? Or was it personal taste? These are the things that we don't know, and it raises other speculations. The finial, off the Napoleonic flag; does that signify some type of French connection? French organized crime? A Napoleonic society? Or did they just want to melt it down for the metal? These are the questions that are always in the back of our minds, to see if something might fit with a particular theory.

AA: If I could expand on that. That is so indicative of this case; every fact that you uncover just leads to more questions that, frankly, drive you crazy. The goal is to get the paintings back on the wall. But I would love to talk to the people who did this and say, "Why did you walk through the early Italian room but take the Ku, which isn't as valuable? Why did you walk by the Raphaels and the Botticelli?" You look in the Dutch Room, and you think, why didn't they take the Van Dyck *Portrait of a Woman with a Rose?* They had the time. Why didn't they take the Rubens? Why didn't they take the two Holbeins by the Tapestry Room? Or the Dürer painting? You can do this all day and wind up feeling like I do. But that's the point. So, yes, you can look at what was left behind, but it just makes you a little more crazy.

AA = ANTHONY AMORE
GK = GEOFFREY KELLY
BK = BRIAN T. KELLY
RD = REBECCA DREYFUS
SF = SHARON FLESCHER

Q TOM MASHBERG, *Boston Herald*: Having covered this theft for thirteen years, I want to commend IFAR for a very accurate, fair and comprehensive presentation of a complex case, and also commend the panelists for the same. The players have changed through the years, and many of the facts have become distorted or lost or confused along the way. So this is extremely helpful, a kind of re-beginning, so that the facts of the case can get out there where the public can make use of them. In that spirit, I need to correct a misinterpretation that people received last week regarding the assertion that on the eve of the twentieth anniversary, the FBI had resubmitted DNA evidence to hunt for new clues in this case. That's inaccurate. In fact, I spoke at length with the FBI regarding that on Friday to clear it up because it was something that puzzled me very much. I was told that the evidence had been submitted for DNA analysis long ago. So the notion that the FBI would wait to use a twentieth anniversary as sort of a fulcrum for resubmitting evidence is ludicrous and, in this instance, not accurate. Anybody who may have also gotten a misrepresentation from reading that there was "new" DNA evidence, I want to let you know that there is no word that I'm aware of, or that the Bureau has talked about, "new" evidence having been removed from the twenty-year-old duct

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tape used to bind the guards. These are very important matters because the facts of this case are going to be what's used to solve them. People should focus on the exact sequence of events and not try to fill in the background with imaginary doings.

STEVE KURKJIAN, *Boston Globe*: I have followed this case for many years. I have read the very interesting report that was done from IFAR's conference in 2000 on the Gardner Museum theft. My name was on the DNA story, which I did from an interview with Geoff Kelly two/three weeks ago. Tom Mashberg, my competition on the story from the *Boston Herald*, in his piece yesterday quoted the FBI spokesman Gail Marcinkiewicz saying that the material had been sent for DNA analysis down to the laboratory "long ago." I called Gail this morning to get some clarification on that, to determine if, in fact, my article was in some way in error — which I couldn't understand, because I'd spoken to Gail on the record. Gail assured me that there was nothing in my article that needed correcting or clarifying. I don't want to drag you folks into a newspaper war between me and my loyal opposition, the *Boston Herald*, but that article stands on its merits and it stays accurate. We hope that there will be — the federal agents and Mr. Amore hope — that there will be a find on it, and that's yet to be determined because the material has not been sent back.

Q SF: Geoff, since there seems to be a debate about the DNA and the FBI, do you want to comment?

A GK: I think I'll stay out of this one…

Q May I ask a question about immunity? If someone you believed was connected to the theft came forward with information leading to the paintings, would that person really get full immunity?

A BRIAN KELLY (BK): Yes. We have this on the table, we will go case by case, but full immunity in terms of, if there was a murder recently committed in order to get the paintings, we wouldn't immunize that. But this crime is twenty years old, and over time it has become more and more difficult to solve, and more and more difficult to follow leads, so we have put this offer [of full immunity] on the table, and it's a serious offer.

Q My question is for Rebecca Dreyfus. I was very struck by Harold Smith, the investigator. Can you tell us a little bit more about him?

A REBECCA DREYFUS: Thank you for asking about Mr. Smith. If I had written "Stolen" as a script and put his character description in, it would have been sent back as too unbelievable. But Harold Smith was real. He was an amazing and dedicated person who spent his life dealing with art theft, mostly for insurance companies like Lloyd's of London. He described the thrill of recovering a painting as being like nothing else, and the Gardner case is the kind of case that is hard to let go of. I think that Harold was getting older, and we appeared. Initially, we contacted him for only one interview, and from the next day, he started calling us and saying, "Ok, so what are we shooting next?" and, "Why don't we go out and start investigating?" We had a moment wondering whether we could put him in a film given the way he looks — he had degenerative skin cancer. But everyone to whom we showed the footage felt that he was compelling; he was so amazing that you almost instantly forgot what he looked like as you got to know him.

Q SF: Harold Smith's son, Greg Smith, is here. He was also in the movie, but there wasn't time to show those segments. Like his father, who passed away in 2005, he is an insurance adjuster. Greg, do you have anything to add in terms of what your father uncovered and turned over to Anthony Amore?

A GREG SMITH: Harold did extensive research and chased down every lead, no matter where it took him, whether it was to England, or Scotland, or South America. I think that Rebecca and Anthony have his entire file. He was an amazing human being who loved his job and his family, and every job that he ever got was the world that day. If he were alive today, he would

be here on this IFAR panel still fighting to find the things from the Gardner.

Q **Can the panel address the international aspect of this, and what is being done in terms of Interpol and other world agencies? Is there an effort to publicize this theft overseas, and what do you think is the likelihood that there is an international involvement?**

A **GK:** That is certainly a possibility. I spoke earlier about my personal opinion, and I temper that by saying that I have to remain receptive to any plausible lead. We have gone overseas; I have been to Europe and Ireland to chase down potential leads. The film mentions the IRA connection, and that is certainly one of the viable leads we've looked into. We continue to work closely with our legal attaché offices. They are FBI agents who are stationed abroad to get the word out. We've dealt with Interpol about this in the past. But would somebody come from Europe to Boston to do an art heist? There are so many museums in Europe, and there are logistical difficulties of traveling overseas to commit a robbery in a foreign country — that being Boston — and then getting the paintings out of the country. Is it possible? Of course it's possible. My predecessor actually traveled to Japan because there was information that one of the paintings was on display in a private homeowner's gallery; it turned out to be just a good copy. So there *is* a worldwide connection with this case, and we continue to pursue any leads in the event that one of them shows that the paintings have gone abroad.

AA: If I could just say one thing about the international question. In the mid-1970s, Bonnie Burnham at IFAR wrote what is still, in my mind, the best study of art theft ever written.[1] It is a statistical study and begs to be updated — so maybe someone would want to donate money to IFAR. The most amazing thing I read, and I think it is apropos, is that the art that gets stolen in the U.S., especially on the east coast of America, does not wind up going overseas. I think this is a really interesting fact, but it also speaks to the incredible work that IFAR has done over the years.

Q **Something has always troubled me about this case, not just because I'm from Boston and know and love the Gardner. It has always struck me that this was a contract case because there was no apparent logic to the paintings taken. Has anyone done a profile of the paintings to determine the possible culprit?**

AA = ANTHONY AMORE
GK = GEOFFREY KELLY
BK = BRIAN T. KELLY
RD = REBECCA DREYFUS
SF = SHARON FLESCHER

A **AA:** As Geoff has pointed out a number of times and I echo, anything we say is just theory, because we haven't gotten the paintings back. But if you examine the movements of the thieves in the building during the theft – we still have the motion detector readouts which show how they moved – one of the thieves went into the Dutch Room and went for the Rembrandts. This is a logical choice, with precedent in Massachusetts — Myles Connor stole a Rembrandt from the Museum of Fine Arts, and Rembrandt's *St. Bartholomew* was stolen from the Worcester Art Museum — so that makes perfect sense. But the second thief kind of went on his own way and took maybe what appealed to him. A typical shopping list in an art museum theft — when I say typical, I mean 99.9% of the time — consists of: go in there and get some Rembrandts; not go into that museum and take this specific painting, and I also want *Three Seated Jockeys* by Degas. You don't see that in art theft, especially in the United States. You do see that in films and in books, but that is not how art is taken. Usually, you go in quickly, grab what you can, and get out. This was an art theft that was eighty-one minutes long, and the thieves went to the Dutch Room and then to the Short Gallery. They walked by works by Raphael, Fra Angelico, and Botticelli — it doesn't make much sense. I would be stunned to find that somebody sent thieves, saying "I want those five Degas — forget about the Michelangelo to the left, forget about the Raphael to the left of it, forget about the Matisse." They had almost an hour and a half in the museum, so it's almost like: "I'm going to go get these Rembrandts, as we've seen done numerous times," but they say to the other guy, "Go get some stuff." If you split what the two took: one guy took the largest haul in the history of art theft; the other guy deserves some type

[1] Bonnie Burnham, *Art Theft: Its Scope, Its Impact and Its Control* (New York: International Foundation for Art Research, Inc., 1978).

of admonishment from his criminal overlords for what he walked by. But thank god he did, thank god he did.

GK: I'll echo what Anthony said. If I were a collector who had commissioned people to steal the Rembrandts and the Vermeer, and they brought the works back sliced out of the frames, I would be furious, and maybe I'd blame myself for not having given them clearer instructions. The eighty-one minutes spent in the museum represents such a level of comfort that there was no need to be slicing pictures out of the frames, to be smashing frames on the ground, breaking the glass. Obviously, they felt so comfortable in that museum that they knew that there wasn't going to be a police response, and that they could take their time and be methodical and deliberate. But as Anthony said, what we see from their actions throughout the museum, it was anything but deliberate and methodical. Perhaps going to the Dutch Room was deliberate, but we have scratched our heads looking at the movements of the thieves as they went through the museum and wondered what were they thinking. Because it was such a diverse haul, it is logical to think that perhaps it was a contract, that these were thirteen items that somebody wanted; but it is such a strange collection, and the thieves' actions throughout the museum were so unusual, and the manner that two of the paintings were sliced out of their frames, that the "contract" theory seems less possible than some of the other theories that we have talked about tonight.

SF: With that, we have to end this long, but fascinating — and newsmaking — program. Let us thank our speakers, and I thank you all for coming. Thanks, too, to First Republic Bank for hosting the beautiful reception outside.

• • •

SCENES FROM THE GARDNER THEFT *EVENING*

Barbara Pine, Meredith Palmer and Herbert Hirsch, IFAR Law Advisory Council member.

LEFT TO RIGHT: Marianne Johnson, Rory Radding and Nina Duchaine.

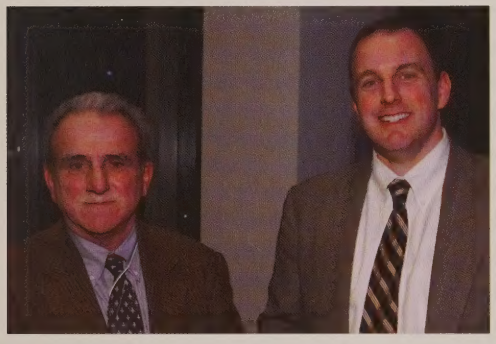
Credit for these photos and all other images of speakers and guests at this program are to Steven Tucker.

CONTINUED

SCENES FROM THE GARDNER THEFT *EVENING*

Sabina and Ronay Menschel.

LEFT TO RIGHT: Amanda de Pena, Lauren Shortt and Laura Vele.



Stephen Kurkjian and Geoffrey Kelly.

Alicia and Norman Volk.

Tom Mashberg.

Gregory Smith.

Barbara Mathes.

Allen Alter and Anthony Amore.

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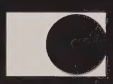

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Anyone wishing additional information should contact the ALR at 44.207.841.5780. From the U.S., add the prefix 011.

STOLEN ART ALERT

STOLEN ART*

PAINTINGS

1. EDWARD DEL ROSARIO (American, b. 1970). ***Aventuras II,*** 2009. Oil on canvas. 24" x 30" (60.96 x 76.2 cm). *N10.126. Stolen from a locked car in Miami Beach, FL on June 3, 2010.

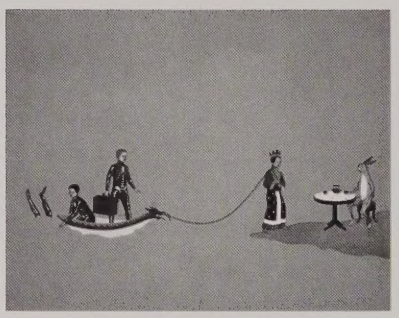
2. RUPPRECHT GEIGER (German, 1908-2009). ***536/69/abstract/ painting,*** 1969. Acrylic on canvas. 100 x 95 cm (approx. 39 ¼" x 37 ½"). Verso: signed u/l. Photo – cat. rais. no. 511. *L10.108830. Stolen from a private residence in Leienkaul, Germany sometime after November 20, 2008.

3. UNKNOWN (Dutch, 17th century). ***Student with a naked breast at a table with a book,*** 1638. Oil on panel. 54 x 40 cm (approx. 21 ¼" x 15 ¾"). Monogram: I.S. *L10.108860. Stolen in transit in Germany on June 20, 2010.

4. CONRAD SCHWIERING (American, 1916-1986). ***Teton Meadows,*** c.1970. Oil on canvas. 26" x 32" (66.04 x 81.28 cm). *N10.105. Stolen from a private residence in Green Valley, AZ on April 21, 2010.

5. FREDERICK JOHN PYM GORE (English, 1913-2009). ***Scarecrow,*** 1937. Oil on canvas. 50 x 60 cm (approx. 19 ¾" x 23 ½"). *L10.108836. Lost in transit between Southampton and Weymouth, England on April 29, 2010.

6. PIET MONDRIAN, JR. (Dutch, 1872-1944). ***Portrait of Arda Boogers,*** c.1908. 58.5 x 48.5 cm (approx. 23" x 19"). Stolen from the Freriks Museum, Winterswijk, The Netherlands, on June 15, 2010.



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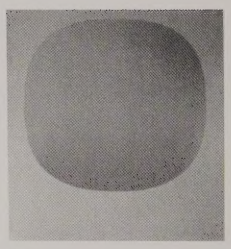

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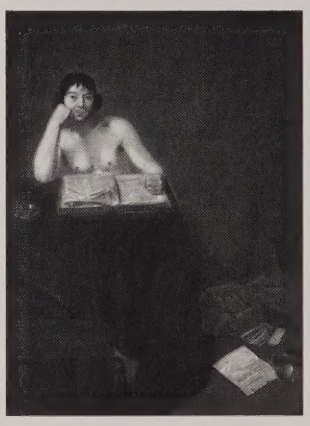

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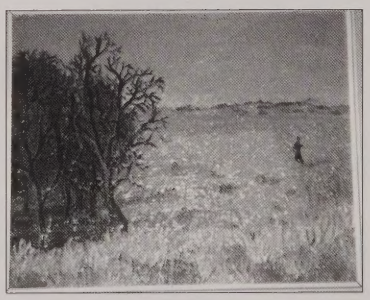

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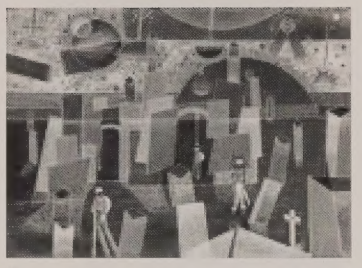

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7. CANDIDO PORTINARI (Brazilian, 1903-1962). ***The Burial,*** 1959. 23 x 33 cm. Stolen from the Contemporary Art Museum in Sao Paulo, Brazil on July 15, 2010.

8. XUL SOLAR (Argentinian, contemporary). ***Palacio en Bria.*** Watercolor tempera. 28 x 40 cm (approx. 11" x 15 ¾"). Stolen from the Teatro Argentino de La Plata on June 13, 2010.

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10

*The following paintings were stolen from the Musée d'Art moderne in Paris on May 20, 2010. *L10.10885:*

9. GEORGES BRAQUE (French, 1882-1963). ***Olive Tree near l'Estaque,*** 1906. 50 x 61 cm (approx. 19 5/8" x 24").

10. FERNAND LÉGER (French, 1881-1955). ***Still Life with Candlestick,*** 1922. Oil on canvas. 116 x 80 cm (approx. 45 5/8" x 31 7/16").

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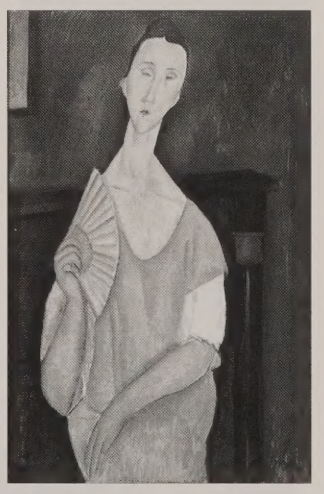

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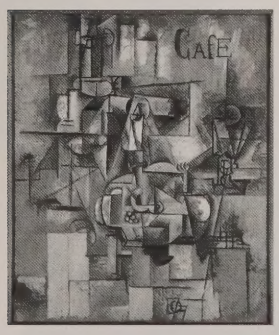
11. HENRI MATISSE (French, 1869-1954). ***Pastoral,*** 1905. Oil on canvas. 46 x 55 cm (approx. 18 1/16" x 21 5/8").

12. AMEDEO MODIGLIANI (Italian, 1884-1920). ***Woman with a Fan (Lunia Czechowska),*** 1919. Oil on canvas. 100 x 65 cm (approx. 39 5/16" x 25 9/16").



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13. PABLO PICASSO (Spanish, 1881-1973). ***Pigeon with Peas,*** 1911-12. Oil on canvas. 64 x 53 cm (approx. 25 3/16" x 20 13/16").

STOLEN ART ALERT

*The following paintings were stolen from a private residence in La Cadière d'Azur, le Var, Provence, France on December 30-31, 2009. *L10.02:*

14. PAUL ACKERMAN (French, 1908-1981). ***Nu de dos.*** Oil on panel. 32 x 23 cm (approx. 12 ½" x 9"). Signed l/r.

15. LOUIS-LINA BILL (French, 1855-1939). ***Vue du bec de l'aigle depuis les Lecques.*** Oil on canvas. 37 x 54 cm (approx. 14 ½" x 21 ¼"). Signed l/l.

16. M. BOUVIER (20th century). ***View of Ghardaia.*** Oil on canvas. 64 x 53 cm (approx. 25 ¼" x 21").

17. LORENZO CASCIO (Italian, contemporary). ***Le Cavalier.*** Collage, gouache on cardboard. 30 x 31 cm (approx. 12" x 12"). Signed l/r.

18. AUGUSTE ELYSÉE CHABAUD (French, 1882-1955). ***Paysage l'etang de berre en arrière-plan.*** Oil on panel. 51 x 74 cm (approx. 20" x 29"). Signed l/r.

19. JEAN LOUIS DUBUC (French, b. 1946): ***Femme à la chaise longue devant une fenêtre.*** Oil on canvas. 29 x 29 cm (approx. 11 ½" x 11 ½'). Signed l/l.

20. UNKNOWN (French). ***Hiver à Montmartre.*** Oil on canvas. 63 x 60 cm (approx. 25" x 23 ¾"). Signed l/r.

21. TSUGUHARU FOUJITA (Japanese, 1886-1968). ***Femme endormie,*** 1951. See color photo on inside back cover.

22. JEAN LABASQUE (French, b. 1902). ***Chemin sous les arbres.*** Oil on canvas. 53 x 44 cm (approx. 21" x 17 ¼"). Signed l/l.

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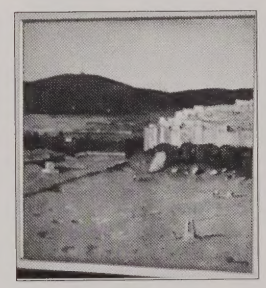

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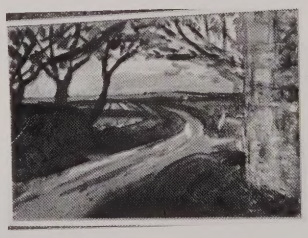

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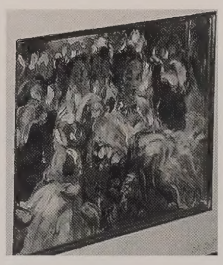

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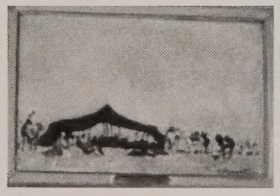

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23. LOUIS MARCOUSSIS (French, 1883-1941). ***Nature morte devant la porte ouverte.*** See color photo on inside back cover.

GÉRARD PAMBOUDJIAN (Armenian, b. 1941):

24. ***Les Arlesiennes.*** Oil on canvas. 60 x 50 cm (approx. 23 ½" x 19 ¾"). Signed l/r.

25. ***Arlesiennes en bustes.*** Gouache. 30 x 40 cm (approx. 11 ¾" x 15 ¾"). Signed l/r.

26. ***Hunt Epervier.*** Oil on canvas. 74 x 61 cm (approx. 29" x 24"). Signed l/r.

27. ***Nude on chair.*** Gouache. 38 x 27 cm (approx. 15" x 10 ¾"). Signed l/r.

28. ***Three women half undressed.*** Oil on canvas. 45 x 37 cm (approx. 17 ¾" x 14 ½"). Signed l/l.

29. ***Woman in mirror.*** Oil on canvas. 46 x 39 cm (approx. 18" x 15 ¼"). Signed l/l.

---

30. HENRI EMILIEN ROUSSEAU attrib. to (French, 1875-1933). ***Cavalier Arabe.*** Oil on canvas. 56 x 47 cm (approx. 22" x 18 ½").

31. CHARLES SAHUGUET (French, 20th century). ***Nature morte aux roses.*** Oil on panel. 33 x 26 cm (approx. 13" x 10 ¼"). Signed u/l.

32. JULES JACQUES VEYRASSAT (French, 1828-1893). ***Bedouin tent in the desert.*** Oil on panel. 15 x 23 cm (approx. 6" x 9"). Signed l/r.

STOLEN ART ALERT

*The following paintings were stolen from a private residence in Athens, Greece on April 1, 2010. *L10.108831:*

33. GEORGES FREDERIC ROTIG (French, 1873-1961). ***Aux aguets,*** 1929. Oil on canvas. 55 x 46 cm (approx. 21 ½" x 18").

34. CHARLES CLÉMENT CALDERON (French, 1870-1906). ***View of Venice: Santa Maria Della Salute.*** Oil on canvas. 27 x 35 cm (approx. 10 ½" x 13 ¾").

35. LOUIS ASTON KNIGHT (American, 1873-1948). ***The Blue Cottage.*** Oil on canvas. 80 x 65 cm (approx. 31 ½" x 25 ½").

36. GUSTAVE BOURGAIN (French, 1855-1921). ***Muslim Prayer.*** Oil on canvas. 33 x 25 cm (approx. 13" x 9 ¾").

37. HENRI ADRIEN TANOUX (French 1865-1923). ***The Andalusian.*** Oil on canvas. 65 x 54 cm (approx. 18 ¼" x 21 ¼").

38. EUGENE RAYMOND GOETHALS (French, 1804-1864). ***Landscape.*** Oil on canvas. 40 x 30 cm (approx. 15 ¾" x 11 ¾").

33

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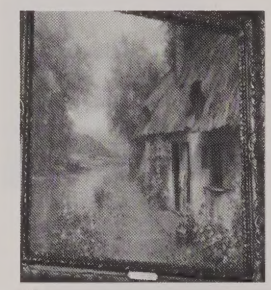

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38

WORKS ON PAPER

The following two prints by BANKSY *(English, contemporary) were stolen from a gallery in London, England on May 30, 2010. *L10.108816:*

39. ***Grey Room,*** 2008. Silkscreen print/ 76 x 56 cm (approx. 30" x 22"). Ed no. 15/63. Signed l/r.

40. ***Happy Choppers,*** 2008. See color photo on inside back cover.

39

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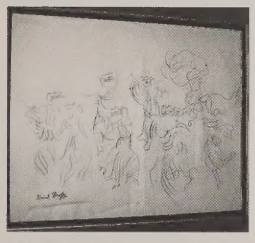

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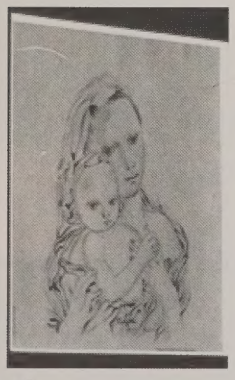

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41. FERNAND LÉGER (French, 1881-1955). ***Nature morte au balalaika.*** See color photo on inside back cover.

42. MAUD SUMNER (South African, 1902-1957). ***Bridge over a River, Oxford***. Watercolor. 45.5 x 60 cm (approx. 18" x 23 ½"). *L10.108837. Stolen from a private collection in Johannesburg, S.A. on May 26, 2010.

43. After RAPHAEL, 19th century copy. ***Madonna and Child with the Infant St. John.*** Watercolor and tempera on paper. 50 x 40 cm (approx. 20" x 15 ¾"). *L10.108829. Stolen from a private residence in Duisburg, Germany on March 14, 2009.

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*The following works on paper were stolen from a private residence in La Cadière d'Azur, le Var, Provence, France on December 30-31, 2009. *L10.02:*

44. AVRAM EDWARD BEN (Israeli, b. 1937). ***Le Repos.*** Gouache and watercolor. 66 x 47 cm (approx. 26" x 18 ½"). Signed l/l.

45. RAOUL DUFY (French, 1877-1953). ***Les Ballets de Monte Carlo.*** Charcoal on paper. 43 x 54 cm (approx. 17" x 21 ¼"). Signed l/l.

46. TSUGUHARU FOUJITA (Japanese, 1886-1968). ***Mother and Child,*** 1950. India ink on paper. 30 x 26 cm (approx. 12" x 10 ¼").

47. ÉLISÉE MACLET (French, 1881-1962). ***Figures on a path.*** Watercolor. 18 x 23 cm (approx. 7" x 9"). Inscribed: Le Maquis. Signed l/r.

48. BILL PARKER (American, 20th century). ***Geometric Abstract Composition in Black.*** Watercolor. 48 x 55 cm (approx. 19" x 23"). Signed l/l.

STOLEN ART ALERT

49. PABLO PICASSO (Spanish, 1881-1973). ***La ronde de la paix,*** 1961. Either a pencil drawing or a lithograph. 62 x 49 cm (approx. 24 ½" x 19 ¼"). Signed l/r. Inscribed: Picasso 25.7.61.

49

50. PAUL SIGNAC (French, 1863-1935). ***Regate.*** Watercolor. 13 x 15 cm (approx. 5" x 6"). Signed l/r.

50

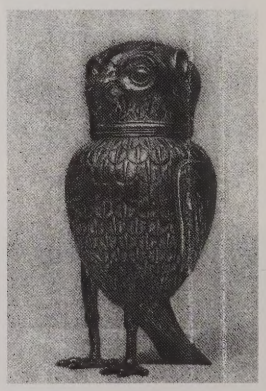
PRINTS, LITHOS

51. JUAN MIRÓ (Spanish, 1893-1983). ***Lizard Feather,*** 1971. Serigraph. 16" x 22". (40.64 x 55.88 cm). Serial no. XVIII/XXRN148513.0003. *N10.133. Stolen from a private residence in Boynton Beach, FL on May 17, 2010.

51

DECORATIVE ARTS

52. ***Jewish Ceremonial Spice Box*** (17th century). Silver. *L10.108850. Stolen from a private residence in Belarga, France sometime between May 6 and May 12, 2010.



52

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*The following snuff boxes were stolen from a gallery in Middleburg, VA on June 13, 2010.*N2010.145:*

53. ***Snuff Box,*** 1819. Silver and tortoiseshell inlaid with ivory. Gilt interior. Maker's mark and French guarantee mark of a rabbit's head.

53

54. ***Victorian Snuff Box,*** 1842. Silver. Ht: 4" (10.16 cm). Inscribed: Presented by P.N. Johnson esq. of Hatton Garden to M.W. Pearce as a tribute of esteem, 1842. With an obscure mark inside the lid.

54

56

57

55. ***George IV Snuff Box,*** 1827. See color photo on inside back cover.

56. ***Oval Snuff Box.*** English silver. Approx. length: 4" (9.65 cm). Engraved with a hunt scene.

57. ***Elizabeth II Fox Mask Stirrup Cup,*** 1964. Silver. Ht: 2 ½" (6.37 cm). Marks in the collar for 1964 London; John Pound & Co.

MISSING ART*

PAINTINGS

1

1. ***Impressionist Garden*** (19th or 20th century). Oil on board. 7 ¾" x 10" (19.69 x 25.40 cm). *N2010.139. Reported missing in transit in Toronto, Ont., Canada on June 17, 2010.

RECOVERED ART*

PAINTINGS

1

1. After CARAVAGGIO, 16th-century copy. ***The Taking of Christ (The Kiss of Judas).*** Oil on canvas. 134 x 172.5 cm (52 ¾" x 68"). *L08.767. Stolen from the Odessa Museum of Western and Eastern Art in the Ukraine on July 29, 2008. Recovered by the police in Berlin on June 28, 2010.

**Numbering for the year 2010/2011 Cumulative Indices of Missing Art and Recovered Art begins with this issue.*

STOLEN ART ALERT

2 BARON HENDRICK LEYS (Belgian, 1815-1869). ***Women in a Synagogue in Prague.*** Oil on panel. 45.7 x 35.5 cm (approx. 18" x 14"). Stolen from a private residence in London, England on May 1, 2000 and recovered in October 2008 with the help of the ALR. *L00.1051. R1038.

2

3 DANIEL TURNER (English, 1782-1817). ***Lambeth Palace.*** Oil on canvas. 9" x 14". (22.86 x 35.56 cm). Stolen from the Department of Energy in London in May 1987. Recovered in September 2009 with the help of the ALR. *PCF 09.454. R1140.

3

4 CAMILLE PISSARRO (French, 1830-1903). ***Le Marché des Poissons.*** Watercolor. 36 x 31 cm (approx. 14 ¼" x 12 ¼"), including gilt frame. *N82.72. Stolen from the Musée Faure, Aix-les-Bain, France in 1981. Recovered in 2003 with the help of the ALR.

4

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*The following paintings that were stolen from the Musée des beaux-arts in Nice, France on August 5, 2007 were recovered by French police in Marseilles in June 2008. *L07.417:*

5 JAN BREUGHEL, THE ELDER (Flemish, 1568-1625). ***Allegory of Water,*** 1568. Oil on canvas. 53 x 94 cm (approx. 21" x 37"). Also signed by fellow artist Hendrick van Balen.

5

6 JAN BREUGHEL, THE ELDER (Flemish, 1568-1625). ***Allegory of Earth,*** 1625. Oil on canvas. 53 x 94 cm (approx. 21" x 37"). Also signed by fellow artist Hendrick van Balen.

6

7

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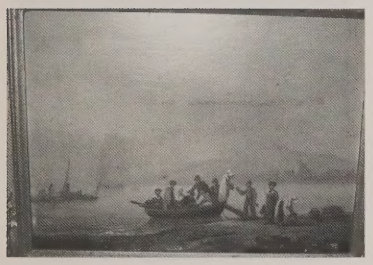

9

10

7 CLAUDE MONET (French, 1840-1926). ***Cliffs Near Dieppe,*** 1897. Oil on canvas. 65 x 100 cm (approx. 25 ½" x 39 ¼").

8 ALFRED SISLEY (English, 1839-1899). ***Lane of Poplars at Moret,*** 1890. Oil on canvas. 76 x 96 cm (approx. 30" x 38").

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*The following paintings were stolen from a private residence in Devon, England on January 17, 1997 and recovered in October 2009 with the help of the ALR. *L97.269.*

9 THOMAS LUNY (English, 1759-1837). ***The Dartmouth Ferry,*** 1828. Oil on panel. 8 ¾" x 12" (22.23 x 30.48 cm). (need image). R.116.

10 WILLIAM TRAIES (English, 1789-1872). ***A Good Day's Catch,*** 1828. Oil on canvas. 19.5 x 25.5 cm (approx. 7 ¾" x 10"). R523.

11 WILLIAM TRAIES (English, 1789-1872). ***Charcoal Burners.*** Oil on canvas. 19 ¼" x 25 ¼". (48.9 x 64.14 cm). R652. Image not available.

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12 MAX ERNST (German, 1891-1976). ***Henry IV, la lionne de Belfort, l'ancien combattant,*** 1935. See color photo on inside back cover.

STOLEN ART ALERT

RECOVERED ART

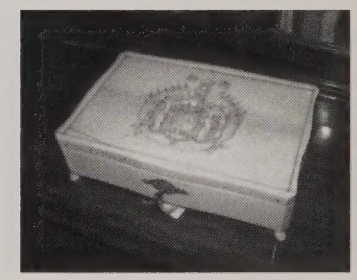
SCULPTURE

13 FERDINAND PREISS (German, 1882-1943). ***Moth Girl,*** 1930. Bronze and ivory. Stolen from a private residence in West Sussex, England on October 18, 2005. and recovered in November 2009? with the help of the ALR. *L05.624. R1169.

13

DECORATIVE ARTS

14 CHARLES-ETIENNE THOMAS (French, 1787-1857). ***Dieppe Carved Ivory Box,*** c.1830. 6.5 x 24 x 15 cm (2 1/2" x 9 1/2" x 6"). Inscribed: Thomas Sculptr Dieppe. *L09.761. R1221. Stolen from a private residence in Warwickshire, England on December 7, 2009. Recovered with the help of the ALR in March 2010.



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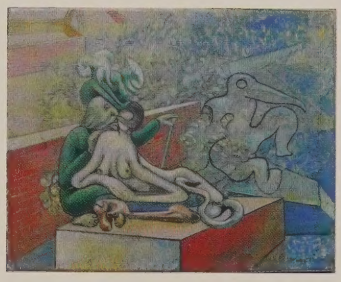

12

STOLEN ART

*The following 2 items were stolen from a private residence in La Cadière d'Azur, le Var, Provence, France on December 30-31, 2009. *L10.02. See also item nos. 14-20, 22; nos. 24-32; and nos. 44-50, this issue:*

21. **TSUGUHARU FOUJITA** (Japanese, 1886-1968). ***Femme endormie,*** 1951. Oil on panel. 19 x 24 cm (approx. 7 ½" x 9 ½"). Signed l/l.

23. **LOUIS MARCOUSSIS** (French, 1883-1941). ***Nature morte devant la porte ouverte.*** Oil on canvas. 60 x 51 cm (approx. 23 ½" x 20"). Signed u/l.

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40. **BANKSY** (English, contemporary). ***Happy Choppers,*** 2008. Print. 89 x 67 cm (approx. 35" x 26 ¼"). Ed. no. 118/750. Signed l/r. *L10.108816. Stolen from a gallery in London, England on May 30, 2010. See also item no. 39, this issue.

41. **FERNAND LÉGER** (French, 1881-1955). ***Nature morte au balalaika.*** Watercolor and gouache. 33 x 45 cm (approx. 13" x 17 ¾"). Inscribed: réponse à ma lettre. Signed: F.L-50. *L10.108771. Interpol no. 2010/23955-1.1. Stolen from a private residence in Stockholm, Sweden on April 5, 2010.

55. ***George IV Snuff Box,*** 1827. Silver gilt. Approx. length: 2 3/4" (6.86 cm). Gilt interior. Lid engraved with the name "H. Cary." Stamped with the mark for John Bettridge, Birmingham, 1827. *N2010.145. Stolen from a gallery in Middleburg, VA on June 13, 2010. See also item nos. 53, 54, 56, 57, this issue.

RECOVERED ART

12. **MAX ERNST** (German, 1891-1976). ***Henry IV, la lionne de Belfort, l'ancien combattant,*** 1935. Oil on canvas. 19 x 27 cm (7 1/2 " x 10 5/8"). Signed and dated l/r. Item no. 3339 in Werner Spies' catalogue raisonné, which describes it as stolen. ADAA theft notice no. 1012, May 1, 1969. *N2008.110. Stolen in 1969 from the Paris residence of the wife of the painter Roberto Matta; recovered in June 2010 in Paris by the gallerist Daniel Malingue, to whom it was offered for sale.

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